

THE POLITICAL CAREER OF MURPHY JAMES FOSTER, GOVERNOR OF LOUISIANA, 1892-1900*

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CHAPTER I

A GENTLEMAN FROM ST. MARY

Bayou Teche, which flows out of Courtableau Bayou, meanders southeastward through the region known as the Attakapas and empties into the Atchafalaya River. It waters one of the most beautiful and fertile sections of Louisiana. During the eighteenth century immigrants were attracted to this region because of its beauty, fertility, and climate. The prosperity of the early settlers encouraged others to seek the advantages with which nature had been prodigal. Among the first families were the Sigurs, De Vals, Couers, Darbys, De Clouets, Dubuclets, Verrets, Gravenbergs, Pecots, Oliviers, Bienvenues, Lastrapes, Gerbeaus, Charpentiers, Demarests, Pellerins, Dejeans, Duclozels, Bryants, Arsenbourgs, Delahoussayes, Navarros, and Moros.¹

By 1810 the Attakapas district had increased in population to the extent that it became desirable to divide it into two parishes, St. Mary and St. Martin.² Legislative approval was given to this act by the last legislative session prior to the admission of the Territory of Orleans into the Union as the State of Louisiana.³

St. Mary Parish not only boasts of being the center of the "Sugar Bowl" but also of having given to Louisiana five outstanding citizens who have contributed much to the development of the state. Few parishes are able to point with pride to more noted leaders than Donelson Caffery,⁴ J. Y. Sanders, John R. Parkerson, prominent in the labor riots of 1886, Charles A. O'Niell and Murphy J. Foster.

* Master's thesis in history, Louisiana State University, 1942.

¹ This information is contained in a booklet on St. Mary Parish, published by J. S. Glass between 1895 and 1900. The title page is missing on the only copy available to the writer. See also *Biographical and Historical Memoirs of Louisiana, Embracing an Authentic and Comprehensive Account of the Chief Events in the History of the State . . .*, 2 vols. (Chicago, 1892), II, 202.

² William Henry Perrin, (ed.), *Southwest Louisiana, Biographical and Historical* (New Orleans, 1891), 217-221.

³ *Territory of Orleans Acts*, 1811, p. 104.

⁴ Lucile Roy Caffery, "The Political Career of Senator Donelson Caffery" (M. A. Thesis, Louisiana State University, 1935), *passim*.

These men, upon reaching maturity, spent many years in the little city of Franklin, the parish seat of St. Mary. Their first training in the field of politics was received there and they all referred to it as their home after they had attained renown. Franklin, one of the most attractive towns along the Teche, was founded around 1800 by a Pennsylvanian, Guinea Lewis, who named it after Benjamin Franklin.⁵ The little village experienced a slow but steady growth and at the time of the early activities of Foster, O'Niell, Parkerson, Caffery, and Sanders it boasted a population of about 2,127.⁶

Some time prior to 1803, while Louisiana was still under Spanish control, Levi Foster settled in the southern part of Louisiana.⁷ He was a thrifty and energetic Englishman of some education and intelligence. After he had acquired some competence, he was married to Zadie de Maret and to this union was born in 1823 a son whom they named Thomas Jefferson Foster in honor of the purchaser of Louisiana. Young Thomas Jefferson inherited the characteristics of his father and like him became a sugar planter. He added to his inheritance and in time became one of the larger and more prosperous sugar growers of the parish. One of his important acquisitions was the "Shady Retreat" plantation, which still remains in the Foster family.⁸

Thomas J. Foster devoted some time and energy to politics and following the Civil War was a local leader in the fight to regain white supremacy. He was a member of the White Camelia and later on the White League.⁹ He was elected to the Police Jury in 1870 and served on that body until his death in 1892, a part of which time he was its president.¹⁰ Thomas married Martha P. Murphy, the daughter of John B. Murphy, sheriff of St. Mary Parish in the 1830's, and Emma Taylor of South Carolina whose father was Captain John Taylor of Revolutionary

⁵ Charles McCarthy, "Facts about Franklin, Louisiana, as Gleaned from Documents in the Possession of Mr. J. E. Laustalot," private MS. in the possession of McCarthy, Franklin, Louisiana.

⁶ *Report on the Population of the United States at the Eleventh Census: 1890*, 2 vols. (Washington, 1895), I, 170.

⁷ Allen Johnson and Dumas Malone, (eds.), *Dictionary of American Biography*, 20 vols. (New York, 1928-1936), VI, 554.

⁸ Mrs. Paul Trowbridge, daughter of Murphy J. Foster, Franklin, Louisiana, to the writer, June 27, 1941.

⁹ John M. Caffery, son of Donelson Caffery, Franklin, Louisiana, to the writer, August 25, 1941.

¹⁰ Interview with John O'Niell, Acting Secretary-Treasurer of the St. Mary Parish Police Jury, August 16, 1941.

War fame.¹¹ Sheriff Murphy acquired the "Chatsworth" plantation near Franklin and it was here that Martha was born.¹²

To Thomas Jefferson and Martha Murphy Foster were born six children. The first child, born January 12, 1849, was named Murphy James Foster, in whose veins flowed English, French, Spanish, and Irish blood.¹³ Murphy James had four brothers, all of whom attained some degree of prominence in their chosen fields. Warren Foster was president of the St. Mary Bank and Trust Company of Franklin; W. Prescott Foster was a large sugar planter; D. N. Foster was a physician who became superintendent of education of St. Mary Parish; and T. D. Foster served as judge of the district composed of St. Martin and Iberia parishes.¹⁴

Murphy J. Foster's early life and training was like that of other young boys of similar station in the parish. He attended the local private schools for his primary education and, later, following the close of the Civil War, young Murphy attended preparatory school at White's Creek near Nashville, Tennessee.¹⁵ Following the two years spent at this school, he enrolled in 1867 at Washington College, now Washington and Lee University.¹⁶ He was probably attracted to this institution by its president, General Robert E. Lee, who undoubtedly influenced the future career of young Foster. He registered for work in Greek, Latin, history, mathematics and literature and did creditable work in all of the courses.¹⁷ The young Louisianian pursued his work at Washington and Lee for only one year, after which he enrolled in Cumberland University at Lebanon, Tennessee. Two years later, in the spring of 1870, he was graduated with the bachelor's degree and returned to Franklin. However, he remained at home for only a few months.

Foster had determined to become a lawyer and he entered the University of Louisiana, now Tulane University, New Orleans, to attend the lectures offered in the field of law.¹⁸ He was grad-

¹¹ Interview with Mrs. Paul Trowbridge, November 15, 1940.

¹² Mrs. Trowbridge to the writer, June 27, 1941.

¹³ Interview with Mrs. Trowbridge, November 15, 1940.

¹⁴ Interview with T. J. Foster, nephew of Murphy J. Foster, August 17, 1941.

¹⁵ Very little information concerning the early life of Murphy J. Foster is extant. The Foster family graciously made available to the writer all data in its possession, but it is so restricted as to be of little value. A search of all of Foster's public speeches for references to his early life proved futile, and very little information has been secured from the citizens of Franklin, Louisiana, who knew him. The St. Mary Parish court records for this period were destroyed, and the scattering newspaper issues throw practically no light on the subject.

¹⁶ Murphy J. Foster "Scrap Book," in possession of Mrs. Murphy J. Foster. Cited hereafter as Foster "Scrap Book."

¹⁷ Registrar, Washington and Lee University, to the writer, November 29, 1940.

¹⁸ Registrar, Tulane University, to the writer, December 3, 1940.

uated in the spring of 1871 and passed the bar examination. Soon afterward he returned to Franklin and opened an office in partnership with his cousin, Donelson Caffery.¹⁹ The partner was older than Foster and was more experienced in the legal profession, hence the arrangement proved to be beneficial to Foster. The firm of Caffery and Foster handled no large cases. They received no fees of any consequence, for the effects of the Civil War were still felt and the people did not have money with which to employ lawyers.²⁰

In 1877 Foster married Miss Daisy Hine, daughter of T. D. Hine, a Franklin merchant who later became secretary of the police jury.²¹ A few months after the wedding Mrs. Foster died.²² Foster subsequently married Rose Routh Ker, the daughter of Captain John Ker and Rose Routh of "Ouida" plantation in West Feliciana Parish. To this union were born ten children, nine of whom reached maturity.

CHAPTER II

EARLY POLITICAL CAREER.

The Negroes under the leadership of the carpetbaggers practically controlled the state in 1871, the year that Foster began his law practice. Henry Clay Warmoth, carpetbagger of ill repute, was then governor and a Negro house painter, P. B. S. Pinchback, was lieutenant-governor. The government was a disgrace to civilized society: graft and corruption were rampant, legislative procedure was a farce, the passage of laws was contingent upon the financial resources of the interested parties, and charters were issued if the proper persons received ample compensation.¹

The state was groaning under the burden of indebtedness and increasing taxation. State taxes amounted to fourteen and one-half mills on the dollar;² and the debt of the city of New Orleans which was \$16,000,000 in 1868 reached the sum of \$20,000,000 by November 1871.³ Extravagance was one of the minor evils and there appeared to be no relief. The members of the legislature drank out of tumblers which cost thirty-five cents each, the inkstands on their desks were valued at \$10.00,

¹⁹ Franklin, Louisiana, *Planters' Banner*, December 13, 1871.

²⁰ John M. Caffery to the writer, August 25, 1941.

²¹ John A. O'Niell to the writer, August 1, 1941.

²² Foster "Scrap Book."

¹ Ella Lonn, *Reconstruction in Louisiana after 1868* (New York, 1918), 21-44.

² *Senate Reports*, 42 Cong., 2 Sess., No. 41, pt. 1, p. 358.

³ *House Reports*, 42 Cong., 2 Sess., No. 92, pp. 1-41.

the brushes which they used to dust their shoes cost seventy-five cents, and the walnut desks upon which they reclined cost \$375.00.⁴ The leaders in the General Assembly attempted to reward all the faithful. While the senate was not in session, twelve committees of that body sat, and the members of one drew \$34,620.40 in salaries and expenses.⁵ One clerk was employed by three committees and drew pay from four.⁶ Eighty clerks were employed for an entire session of the General Assembly at \$8.00 per day to insure the proper preparation of the one hundred and twenty bills that were enacted into law. There was no compunction about robbing the state, and one of the least objectionable raids upon the treasury was the state printing contract which called for an expenditure of \$183,000.⁷ In addition to such unofficial raids, the General Assembly appropriated the sum of \$958,956.50 for operating expenses, or an average daily expenditure of \$113.00 per day per member.⁸ Henry Clay Warmoth naturally protested his honesty, yet he admitted that during his first year as governor he acquired over a hundred thousand dollars.⁹ Conditions in New Orleans were so critical that many people were almost starving; in two years the population decreased by 30,000.¹⁰

The situation in the parishes was a replica of the state and was more unbearable because it was closer to the people. During the Reconstruction period the Negroes completely dominated the local government in St. Mary as in other parishes. The scepter of Federal control made it impossible for the whites to overthrow Negro rule in a legal manner. Conditions became so intolerable that it was decided to circumvent Negro domination by subterfuge or extralegal action. To this end a White Man's or Caucasian Club was organized in Franklin, May 22, 1867, by Judge Alcibiade de Blanc.¹¹ Similar clubs were organized in other communities and within a short time they were known as the Knights of the White Camelia. Following a state convention of the new organization at New Orleans in 1868, chapters were

⁴ Lonn, *Reconstruction in Louisiana after 1868*, 341.

⁵ *Louisiana Senate Journal*, 1870, p. 12.

⁶ Lonn, *Reconstruction in Louisiana after 1868*, 20.

⁷ Garnie William McGinty, "The Transition from Radical to Democratic Rule in Louisiana, 1876-1880" (Ph.D. Dissertation, University of Texas, 1940), 28.

⁸ *House Miscellaneous Documents*, 42 Cong., 2 Sess., No. 211, p. 396; Albert Phelps, *Louisiana: A Record of Expansion* (Boston and New York, 1905), 368.

⁹ *House Reports*, 42 Cong., 2 Sess., No. 92, p. 25.

¹⁰ Lonn, *Reconstruction in Louisiana after 1868*, 340.

¹¹ John Rose Ficklen, *History of Reconstruction in Louisiana (through 1868)* (Baltimore, 1910), 340.

organized in practically all the southern states.¹² Thomas J. Foster was a member of the Camelia and it is probable that young Murphy J. was also.¹³

The first post-Civil War election in St. Mary Parish was held in 1868. The Negroes outnumbered the whites three to one and elected the parish ticket. They chose one of their own race for sheriff, Colonel H. H. Pope of Indiana, but his tenure of office was brief for he was shot in his hotel room before the close of the year.¹⁴ Although a desultory effort was made to locate the guilty party, the name of the murderer remained a mystery, and Pope's removal from the scene of action was generally ascribed to the White Camelia.¹⁵

Such were the intolerable conditions when the state and parish elections of 1872 were held. Several state tickets had been nominated. Among the more important of these were the "Last Ditch" Democrats with John McEnery and B. F. Jonas as the standard bearers; the Customhouse-Grant Republicans with William Pitt Kellogg for governor and the Negro, C. C. Antoine, for lieutenant-governor; and the Pinchback Republican ticket with D. B. Penn and John S. Young aspiring to the two first places.¹⁶ Before the campaign had progressed far factions coalesced into the "fusion" ticket headed by McEnery and Penn and the Republican ticket led by Kellogg and Antoine. The early returns of the election of November 4, 1872, indicated a victory for the McEnery ticket, but the Kellogg forces, fearing defeat at the hands of the returning board, resorted to methods of doubtful legality. The returning board was composed of the governor, lieutenant-governor, secretary of state, John Lynch and T. C. Anderson. Pinchback was a candidate for Representative-at-large and Anderson was an aspirant for political office. In view of the situation Warmoth appointed F. W. Hatch and Durant Daponte in the places of the two candidates and designated John Wharton as the new secretary of state. As a result of the new appointments the returning board, with the single exception of Lynch, was under the control of Warmoth who favored the Mc-

¹² McGinty, "The Transition from Radical to Democratic Rule in Louisiana, 1876-1880," 14.

¹³ Interview with Walter P. Kemper of Franklin, Louisiana, August 15, 1941.

¹⁴ R. Emmett O'Neill to Edgar Laustalot, October 18, 1931, in the possession of the Laustalot family of Franklin. O'Neill was living in Franklin at the time of the murder.

¹⁵ This opinion has been expressed by many of the older citizens of Franklin whom the writer interviewed.

¹⁶ Henry Clay Warmoth, *War, Politics, and Reconstruction: Stormy Days in Louisiana*, (New York, 1930), 197-199.

Enery ticket.¹⁷ Lynch resigned from the board and, with the aid of F. D. Herron, the deposed secretary of state, he proceeded to organize a new returning board consisting of Lynch, General James Longstreet, Jacob Hawkins, Governor Warmoth, and G. E. Bouvee, a former secretary of state.¹⁸ Naturally, Warmoth ignored this action.

Kellogg obtained an *ex parte* order from Judge E. H. Durell forbidding the Warmoth faction to count the vote except in the presence of the Lynch board. Warmoth was prepared for such a political maneuver; he immediately signed a bill passed by the last legislature which authorized the election of a new returning board. He then proceeded to appoint an entire new board, since the legislature was not in session to elect one. This third returning board, which came to be called the DeFeret board, was composed of Thomas Isabelle, P. S. Wiltz, J. A. Taylor, J. E. Austin and G. DeFeret. It proceeded to canvas the returns and declared McEnery elected by a vote of 68,169 to 60,233.¹⁹ The Lynch board, not to be outdone, held a meeting of its own and its promulgation of the returns indicated that Kellogg was elected by a vote of 72,890 to 54,029.²⁰

Each party maintained that its ticket was victorious and that its elected officials would replace the respective incumbents. This led to the inauguration of two governors and the convening of two legislatures. The McEnery legislature met in the city hall of New Orleans on December 2 and was recognized by Warmoth as the legal body. The Kellogg legislature also met in the Crescent City and functioned under the protection of Federal troops. Each legislature proceeded to promulgate the election returns; the Democratic body gave McEnery 65,622 votes and Kellogg 59,152,²¹ while the Republican legislature declared Kellogg elected by a vote of 72,890 to 44,249.²² McEnery appealed to President Grant for recognition, and meanwhile Congress dispatched a committee to Louisiana to investigate the situation. Although the Congressional committee declared the McEnery government the *de jure* government and recommended that the state be placed under Federal control until proper officials could be chosen,²³

¹⁷ Phelps, *Louisiana: A Record of Expansion*, 372.

¹⁸ *Ibid.*, 372-373.

¹⁹ *New Orleans Daily Picayune*, December 11, 1872.

²⁰ *Ibid.*, December 10, 1872.

²¹ *Ibid.*, January 12, 1873.

²² *Louisiana House Journal*, 1872, p. 10.

²³ *Senate Reports*, 42 Cong., 3 Sess., No. 457.

Grant ignored the report and exerted his authority in favor of the Kellogg government.²⁴ Grant recognized the weakness of the Republican government, but he maintained it with armed force. On May 22, 1873, the President issued a proclamation in which he ordered all discontented persons to disperse within twenty days and submit to the law.²⁵

Murphy J. Foster was a candidate for the legislature and had campaigned for McEnery in St. Mary. For a young attorney he was in a favorable situation. His father had been elected to the police jury from the third ward in 1870 and was influential throughout the parish.²⁶ In addition, he was a candidate for re-election and this tended to enhance his son's chances of success. The fight was between the whites and the Negroes under the labels of Democrats and Republicans, respectively. It was impossible to state with certainty who was elected. The Lynch board, as in the case of the state contest, declared its candidate elected. The parish was declared to be for Kellogg by a vote of 1,667 to 739,²⁷ and in the race for representative the Negroes, Arthur Antoine and Isaac Sutton, were given 1,847 and 1,005 votes respectively.²⁸ J. J. Moore, the independent candidate, was declared to have 339 votes. The Democratic candidates, James Costello and Foster, trailed with 737 and 735 votes.²⁹ Naturally, the DeFeret board declared Foster and Costello duly elected as representatives from St. Mary.³⁰

With the convening of the McEnery legislature, Foster and Costello took their seats as representatives from St. Mary. Foster was made a member of the Finance Committee and probably would have been an important member if the legislature had functioned.³¹ His main efforts were directed to the task of winning support for the McEnery government, and he was largely responsible for the mass meeting held in Franklin on December 28, at which Colonel A. L. Tucker, Judge Fred Gates, Honorable Charles Smith, and Foster spoke. Following the addresses, the assembly passed resolutions urging the legislators to remain

²⁴ *House Executive Documents*, 42 Cong., 3 Sess., No. 91.

²⁵ James D. Richardson, (ed.), *A Compilation of the Messages and Papers of the Presidents, 1789-1887*, 10 vols. (Washington, 1900), VII, 276-277.

²⁶ Perrin, *Southwest Louisiana, Biographical and Historical*, 218-219.

²⁷ *Daily Picayune*, December 10, 1872.

²⁸ *Ibid.*

²⁹ *Ibid.*, December 10, 1872, and December 10, 1876; *New Orleans Republican*, November 10, 1876. These papers contain the parish election returns for 1872 and 1876, which are not available in either the St. Mary Parish courthouse or the state capitol.

³⁰ *Daily Picayune*, December 5, 1872.

³¹ *Ibid.*, January 11, 1873.

loyal to the Democratic government and protesting against the action of the Federal government in recognizing the Kellogg government.³²

Under the existing conditions it was not surprising that disorders occurred in various sections of the state. One of the most serious began in New Orleans on March 3, 1873, and by March 6 it had reached such a point that General Longstreet dispatched troops to the Odd Fellows Hall and arrested the legislators who were waiting for the opening of a session.³³ The members of the house present at the time were Foster, A. Leonard, and Speaker J. C. Moncure; the senators were Octave Hanson, and Alfred Voorhies; and all five were subjected to the indignity of being marched to the guardhouse between files of sharpshooters and thrown into the drunkards' cell.³⁴ Kellogg sensed the tenseness of the situation and ordered their release. The McEnery legislature adjourned *sine die* the same day.³⁵

On September 14, 1874, a fight occurred in New Orleans when Federal troops seized arms which were being shipped to private citizens on the ground that they were for the White League.³⁶ Grant immediately reinforced the Kellogg government with more Federal troops and a warship was sent to support the carpetbag government.³⁷ McEnery relinquished all hope of being chief executive, and on September 17 he closed his office.³⁸

No sooner had the McEnery government been overthrown than Foster and other Democratic leaders began to plan for the next election. Foster became one of the organizers of the White League, which had resolved that "come what may, upon the Radical party must rest the whole responsibility of this conflict, and as sure as there is a just God in heaven, their unnatural cold-blooded and revengeful measures of reconstruction in Louisiana will meet with a terrible retribution."³⁹

At the same time that Foster was fighting desperately to restore white supremacy he was strengthening himself politically.

³² *Opelousas Courier*, January 4, 1873.

³³ Phelps, *Louisiana: A Record of Expansion*, 373-381.

³⁴ *Daily Picayune*, March 7, 1873.

³⁵ *Ibid.*

³⁶ *House Reports*, 43 Cong., 2 Sess., No. 101; Walter L. Fleming, (ed.) *Documentary History of Reconstruction*, 2 vols. (Cleveland, 1906-1907), II, 144-145.

³⁷ McGinty, "The Transition from Radical to Democratic Rule in Louisiana, 1876-1880," 23.

³⁸ Phelps, *Louisiana: A Record of Expansion*, 380-381.

³⁹ H. Oscar Lestage, Jr., "The White League of Louisiana and Its Participation in Reconstruction Riots" (M.A. Thesis, Louisiana State University, 1930), 44.

His visits from village to village to explain the motives and purposes of the White League brought him into contact with the leading citizens of the parish. Many of the men to whom he talked personally and in groups at Charenton, Centerville, Bayou Salé, Brashear,⁴⁰ and Pattersonville became his lifelong friends and political followers.⁴¹ The activity of the White League irked the editor of the Republican *Attakapas Register* who attacked it in the columns of his paper. Shortly thereafter the office of the *Register* in Franklin was mysteriously wrecked.⁴²

The Democrats were fairly well organized by the time of the 1876 election and they were grimly determined to wrest the government from the hands of the Negro and the carpetbagger. They selected for their standard bearers Francis T. Nicholls and Louis A. Wiltz;⁴³ and the Republicans put forward Stephen B. Packard and C. C. Antoine. As Foster had been a candidate in 1872, it was decided that Donelson Caffery should represent the law firm at the polls in 1876. Caffery announced for the senate from the ninth senatorial district, of which St. Mary Parish was then a part, and made a vigorous campaign. Foster's support of Nicholls and Caffery was to no avail as the Negroes were still in control in St. Mary. Packard carried the parish by a vote of 2,397 to 1,455;⁴⁴ The Negro R. J. Brooks was elected to the lower house,⁴⁵ and Isaac Sutton defeated Caffery for the Senate by a majority of 149 votes.⁴⁶

A situation quite similar to that in 1872 developed. Two state legislatures were organized; the Republican body declared Packard elected by a vote of 74,624 to 71,198, while the Democratic group maintained that Nicholls led his opponent by a vote of 84,487 to 76,477. Public sentiment was very strong against the Radicals and only the presence of Federal troops in New Orleans made it possible for the Packard legislature to organize. Again the white Democrats appealed to Washington for justice and this time President Rutherford B. Hayes decided to bring peace to Louisiana. He instructed the Secretary of War to withdraw the Federal troops, and without their assistance the Packard

⁴⁰ *Opelousas Courier*, July 11, 1874. Brashear is now Morgan City and Pattersonville is Patterson.

⁴¹ *Ibid.*, July 18, 1874.

⁴² *Republican*, August 18, 1874.

⁴³ *Daily Picayune*, July 27, 1876.

⁴⁴ *Republican*, November 10, 1876.

⁴⁵ *Ibid.*

⁴⁶ *Daily Picayune*, December 10, 1876. The vote for state senator was: Sutton 2,534; Caffery 2,395; and W. B. Smith 90.

regime collapsed.⁴⁷ This paved the way for the Nicholls administration to function as the recognized and legal government of Louisiana.⁴⁸

Conditions were almost intolerable in Louisiana. The state government could not function effectively and it lacked the finances to pay operating expenses. Many citizens felt that the only means of restoring public confidence and stabilizing the state's finances was to call a constitutional convention. In urging upon the General Assembly which met on January 6, 1879, the necessity of calling a convention Governor Nicholls stated that "upon you devolves the grave duty of carrying on the work of relieving the people of the state from all the burdens consequent upon so many years of misgovernment."⁴⁹ The legislature therefore issued a call for a convention to assemble on April 21.⁵⁰ The tenth senatorial district elected Donelson Caffery as one of its members of the convention. The convention made provisions for holding an election on the first Tuesday in December, 1879, for the purpose of ratifying the proposed constitution and electing new state officers and members of the legislature.⁵¹

Foster was a candidate for senator from the tenth senatorial district in the election of 1879. The extra session of the legislature in 1878 had reconstructed the tenth senatorial district so that it was composed of Vermilion, St. Mary, Cameron and Calcasieu parishes and represented by two senators.⁵² The aspirants for the senatorships in addition to Foster were Adrien Nunez, A. J. Perkins, and E. A. Landry. The registration of 1879 showed the district to be composed of 4,452 white and 3,576 colored voters, while St. Mary Parish had 2,871 Negro registrants to 1,137 white voters,⁵³ and J. B. Verdun, Jr., a Negro, was clerk of court.⁵⁴

The gubernatorial election resulted in a tremendous majority for the Democrats, with Louis A. Wiltz receiving 74,769 votes to

⁴⁷ McGinty, "The Transition from Radical to Democratic Rule in Louisiana, 1876-1880," 178-179.

⁴⁸ Fanny Z. Lovell Bone, "Louisiana in the Disputed Election of 1876" (M.A. Thesis, Louisiana State University, 1928), 129-130.

⁴⁹ *Louisiana Senate Journal*, 1879, pp. 7-20.

⁵⁰ *Louisiana Acts*, 1879, p. 12-13.

⁵¹ *Constitution of the State of Louisiana, . . . 1879* (New Orleans, 1879), 62-64; *Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana, . . . 1879* (New Orleans, 1879), *passim*.

⁵² *Louisiana Acts*, Extra Session 1878, p. 277.

⁵³ *Annual Report of the Secretary of State, 1878-1879* (New Orleans, 1879), 6. The number of white and Negro voters registered in each of the four parishes was as follows: St. Mary 1,137 whites, 2,871 Negroes; Vermilion 1,236 whites, 310 Negroes; Cameron 403 whites, 64 Negroes; Calcasieu 1,676 whites, 31 Negroes.

⁵⁴ *Ibid.*, 1880, p. 65.

40,764 for Taylor Beattie, his Republican opponent for governor.⁵⁵ In the race for state senator Foster and Nunez, the Democratic candidates, were easily elected over their two Republican opponents.⁵⁶ The vote in St. Mary was indicative of the confidence placed in Foster by the citizens of his home parish, for in the gubernatorial race the Republicans carried the parish by a vote of 1,237 to 515, and Moses Jackson, a Negro Republican, was elected as representative.⁵⁷

Foster took his seat in the legislature which met in 1880. His constituents returned him for three consecutive terms of four years each.⁵⁸ During his twelve years in the senate he served on such important committees as finance, agriculture, commerce and levees, and the special committee to rearrange the judicial districts. He was also chairman of the judiciary and Federal relations committees.⁵⁹

During his first few years in the senate Foster devoted himself to the promotion of legislation for the improvement of the state schools. On July 4, 1884, he introduced a resolution in the senate authorizing the Louisiana State University to establish agricultural experiment stations in cooperation with the Federal government.⁶⁰ He sponsored many measures regulating public carriers, one of which provided that public carriers were to settle at the point of delivery for all freight they may have failed or neglected to deliver and to pay all damages arising from such failures.⁶¹

It was Foster's sincere belief that lotteries were morally wrong. He had witnessed the influence which they exerted in the constitutional convention of 1879. He was especially opposed to the Louisiana State Lottery Company, for it was hindering the progress of constructive state legislation. Fourteen sessions of the legislature had been held between 1872 and 1884 at a cost of approximately \$1,500 per day. One hundred and forty days had been given over to the consideration of the lottery interest at a cost of \$200,000 to the taxpayers during the fourteen sessions of this period.⁶² As early as 1884, Foster introduced a bill to

⁵⁵ *Daily Picayune*, January 15, 1880.

⁵⁶ *Ibid.*, January 3, 1880. The vote for state senator was: Foster 3,618; Nunez 3,088; Perkins 1,372; and Landry 774.

⁵⁷ *New Orleans Times*, December 5, 1879, January 3, 1880. The St. Mary vote was: Foster 1,305; Nunez 979; Landry 467; Perkins 457.

⁵⁸ *New Orleans States*, June 13, 1921.

⁵⁹ *Louisiana Senate Journals*, 1880-1890, *passim*.

⁶⁰ *Ibid.*, 1884, p. 376.

⁶¹ *Ibid.*, 1888, p. 30.

⁶² *New Orleans Times-Democrat*, June 5, 1884.

prohibit the sale of lottery certificates or tickets and the drawing of lotteries;⁶³ but the Lottery Company defeated the bill. Even at this early date, six years before the Lottery Company applied for a renewal of its charter, Foster was earnestly opposed to it.

In 1888, after serving in the senate for eight years, Foster was elected president *pro tempore*.⁶⁴ His ability as a presiding officer was recognized when the senate unanimously adopted a resolution proposed by Charles F. Soniat of Orleans Parish, stating that "the senate express its appreciation of the able, courteous and impartial manner with which Hon. Murphy J. Foster, president pro tempore of the senate, has presided over the deliberations of the senate, in the absence of the lieutenant-governor."⁶⁵

That Foster was of service to his constituents is evident from the fact that as often as he presented himself for reelection he received their vote of confidence. The committee appointments which he held and his election by his colleagues to the highest position in the senate was evidence of the trust and confidence which they placed in him. His efforts in the senate were especially directed to improving the school system and obtaining enactment of legislation for the regulation and improvement of the railroads. The greatest single fight which he waged, and which brought him national recognition, was his fight against the Louisiana Lottery Company. In this fight he led the forces of morality to victory over the graft and corruption that permeated the state government.

CHAPTER III

THE RECHARTER FIGHT

The greatest fight of Foster's political career was against the Louisiana Lottery Company. This company had been chartered by Act XXV of the legislature of 1868 and had paid handsome dividends to the stockholders even after paying \$40,000 annually to the Charity Hospital.¹ As early as 1889, the stockholders began preparations to secure a recharter before the expiration of its charter on January 1, 1894. In May 1890, shortly after the meeting of the legislature, the Lottery Company

⁶³ Louisiana Senate Journal, 1884, p. 54.

⁶⁴ Ibid., p. 4.

⁶⁵ Ibid., p. 434.

¹ Louisiana Acts, 1868, p. 24; G. W. McGinty, "The Louisiana Lottery Company," in *Southwestern Social Science Quarterly* (Austin, Texas, 1920—), XX (1940), 329-348.

issued a statement to the people of Louisiana over the signature of its president, John A. Morris. "At the approaching session of the Legislature of this State," Morris announced in the press, "I shall submit a proposition for the privilege of maintaining a lottery in Louisiana. For this privilege I shall offer to pay to the State, quarterly in advance, the sum of \$500,000 per annum, or \$12,500,000 for the franchise for twenty-five years. This annual license of half a million dollars, I would propose to have devoted: One-third to the public school system of the State; one-third to existing charitable institutions and such others as may be created; and the remaining third to the construction, maintenance and repairs of levees. I trust that you will give this proposition calm consideration, and let the people of the State know your views on the subject. It is a question which members of the press should consider, I think, without prejudice of any kind, looking only to the best interests of the State."² This announcement prompted the *Times-Democrat* to suggest that the legislature submit the proposal to a vote of the people.³

In his message to the legislature, Governor Francis T. Nicholls emphatically opposed any effort to recharter the Lottery Company. Eight pages of his message were devoted to pointing out the evils of the institution. He maintained that, with its great financial resources, it would eventually control the destinies of the state by dictating the election of Federal and state officials. To combat this Nicholls promised that he would use his influence to see that the state "shall not pass under the control of a gambling institution."⁴

This opposition of the Governor and the competition from the Zacatecas Mexican Lottery Company caused Morris to double the amount of his offer. On the day following Nicholls' message, Morris stated in the *States* that he believed \$500,000 to be a just price for the charter, but that in consideration of the dire needs of the state he was willing to pay \$1,000,000 annually for a period of twenty-five or fifty years for a recharter.⁵ The Mexican Company offered the same annual bonus, but did not include in its proposal the stipulation that it be granted the exclusive privilege of operating in Louisiana.⁶

² *Times-Democrat*, April 18, 1890; *New Orleans Daily States* April 18, 1890; *New Orleans Weekly Louisiana Review*, April 23, 1890; *Opelousas St. Landry Democrat*, April 26, 1890.

³ *Times-Democrat*, April 18, 1890.

⁴ *Ibid.*, May 13, 1890; McGinty, "The Louisiana Lottery Company," *loc. cit.*, XX, 329-348.

⁵ *Daily States*, May 13, 1890.

⁶ *Daily Picayune*, May 23, 1890.

Shortly after the legislature convened, S. O. Shattuck of Calcasieu Parish placed the lottery question in the forefront by serving notice of his intention to introduce a bill in the house calling for the submission of a constitutional amendment to the people of the state.⁷ The prolottery forces in the house were able to have the bill referred to a special committee, which insured a favorable report.⁸ The committee stated that it was good Democracy to allow the people to decide whether or not they wished the lottery; and, furthermore, the money to be derived from this source was badly needed by the state to provide the necessary funds for the upkeep of its levees and its various charitable institutions.⁹ The antilottery members of the committee submitted a minority report, in which it was charged that the offer of the Lottery Company was nothing more nor less than a proposal to buy the state and bribe its people. In addition, this minority report pointed out that the state's revenues were sufficient to meet the expenses of the government. It further contended that the \$1,000,000 offered by the company was an insufficient amount to pay for such a charter, since the Lottery Company would be required to pay \$1,772,000 annually in taxes and licenses if not exempted from taxation.¹⁰ In conclusion, it predicted that the Lottery Company, if granted this charter, would become so powerful and influential in the state that Morris and his followers could actually dictate the election of public officials and the passage of laws.¹¹

Before the lottery bill was passed to its third reading the opponents of the measure tried to delay its consideration until the special committee could report on the Mexican Company's proposition. This offer was presented in the form of a memorial from Benjamin Newgass *per* H. Beer, which proposed to pay the state \$1,250,000 annually for exclusive privileges to operate lotteries.¹² The house special committee reported favorably on this proposal and suggested that it be drawn up in the form of a bill. Such a measure was introduced by D. W. Pipes of East Feliciana Parish and referred to the special committee, but it refused to act upon it.¹³

⁷ Louisiana *House Journal*, 1890, p. 199.

⁸ *Ibid.*, pp. 221-223.

⁹ *Ibid.*, pp. 315-323.

¹⁰ *Ibid.*, p. 321.

¹¹ *Ibid.*, p. 322.

¹² B. C. Alwes, "The History of the Louisiana State Lottery" (M.A. Thesis, Louisiana State University, 1929), 190.

¹³ Louisiana *House Journal*, 1890, p. 81.

On June 20, 1890, the antilottery leaders were defeated in their attempt to have the house resolve itself into a committee of the whole to consider amendments to the lottery bill. Morris, realizing that the Mexican Lottery Company offer was jeopardizing his chances with the legislature, attempted to overcome the growing opposition by offering to assist the state to repair the levees. He notified the house that, "in response to your question as to what I am willing to do in relation to the levees, I beg leave to say that if my proposition goes through the legislature and is submitted to the people for their approval, I stand prepared to advance \$1,000,000 in 1890 for levee building and repairing in the different parishes of the State, and the same amount in 1891, said sum to be returned to me out of the sums to go to the levees in the present bill."¹⁴ On June 25 the measure providing for the submission of the question to the electorate passed the house by a vote of sixty-six to twenty-nine, being more than the two-thirds vote required for a constitutional amendment.¹⁵

As the members of the house responded to the roll call on the lottery question many of them explained their votes. Peter S. Lawton of Orleans Parish explained his "aye" by saying that a majority of his constituents favored the measure and that he had information to the effect that the Morris proposal would be amended in the senate so that it would call for \$1,250,000 per annum as did the Newgass proposal. A. W. Faulkner of Caldwell Parish favored the measure because he thought it would be automatic not to submit such an important matter to the decision of the people. J. M. Stallings of Lincoln Parish expressed himself as being opposed to the lottery, but he favored leaving the decision to the people.¹⁶

The bill precipitated a very bitter fight in the senate. Foster, one of the most influential members of that body, appeared to be the logical choice to lead the fight against the recharter. Six years before he had introduced the senate bill to prohibit the sale of lottery tickets, and his honesty was unimpeachable. Although not a wealthy man, there was never any charge of bribery directed against him, which could not be said of all of those who opposed the recharter.¹⁷ Even Governor Nicholls and Senator Edward D.

¹⁴ *Ibid.*, p. 387.

¹⁵ *Ibid.*, p. 432.

¹⁶ *Ibid.*, pp. 432-443.

¹⁷ *States*, June 13, 1921.

White were accused of receiving money from the Lottery Company; consequently, it followed that Foster should lead the fight.

In the senate the bill was referred to the Committee on Health and Quarantine. The principal amendment made in the committee increased the license from \$1,000,000 to \$1,250,000 per annum, with the provision that the general fund was to receive the extra quarter-million dollars.¹⁸ Shortly after the senate began to consider the bill, Foster introduced a resolution providing for the appointment of a committee of five to investigate the charges that the two lottery companies seeking a charter were attempting to influence the members of the General Assembly.¹⁹ The lottery proponents could ill afford to vote against the resolution because it would imply fear of revealing culpable actions upon the part of the lottery companies.

Alfred Goldthwaite of Orleans Parish, senate leader of the prolottery forces, attempted to avoid the issue by offering a substitute resolution. His resolution provided that the senate elect a special committee composed of Alfred Goldthwaite, K. A. Cross, C. C. Cordill, Murphy J. Foster and Frederick Seip to consider all bribery petitions, resolutions, and memorials. The committee would also investigate the method and means used by senators to secure their election in 1888 and the amount of money used, not only by senators but also by other state officials, for the expenses of their last campaign.²⁰ This proposal was unacceptable to the antilottery forces for they knew that senators Goldthwaite, Cross and Cordill were favorable to the lottery and, therefore, the investigation would be conducted to the benefit of the lottery interest. After introducing his resolution Goldthwaite, with the aid of the majority in the senate controlled by the Lottery Company, had his resolution and the Foster resolution referred to a special committee which he hoped to control.²¹ He was unsuccessful in this, however, for the committee reported its inability to agree and returned both resolutions to the senate without action.²²

Foster then defended his resolution. He defied the Lottery Company and dared the senate to investigate his charges of bribery. He presented letters and other evidence as proof that

¹⁸ Alwes, "The History of the Louisiana State Lottery," 118.

¹⁹ *Louisiana Senate Journal*, 1890, p. 64.

²⁰ *Ibid.*, pp. 73-74.

²¹ *Ibid.*, p. 104.

²² *Ibid.*, p. 168.

the Lottery Company had offered each member of the legislature at least \$10,000 for his support. In concluding his attack upon the lottery influence, he stated defiantly that, "in the name of Louisiana, in the name of her virtue, in the name of her patriotism, we challenge you to an open contest upon the floor of this chamber."²³

After such a challenge the prolottery senators could not afford to vote against the resolution calling for an investigation, but they made a futile effort to postpone indefinitely Foster's resolution.²⁴ Attempts were made to compromise the differences between the two factions, and Morris suggested that the legislature pass the lottery amendment and also the bill submitting the question to the vote of the people.²⁵ It was understood that if the people voted in favor of the lottery, the amendment would go into effect, and if the vote was in the negative Morris would not press the claims of his company any further.²⁶

None of the antilottery leaders would compromise, and when the lottery amendment came up in the senate Foster made every effort to defeat it by the strategy of proposing amendments. The first of these provided that the Lottery Company divide its revenues with the state on a fifty-fifty basis. When this was defeated, he then attempted to restrict the use of money by the Lottery Company to influence votes, to forbid Morris to pay funds, to charter additional lottery companies, to provide for a special ballot form to be used in the election, and finally to require the Lottery Company to pay all parish and municipal taxes.²⁷

Following the defeat of the Foster amendments, W. W. Vance offered amendments designed to prohibit daily lottery drawings and to require the Lottery Company to make public its records.²⁸ The antilottery forces hoped that by such dilatory tactics the end of the session would come before definite action could be taken on it.

Foster clearly stated his motives for opposing the bill when he said, "my opposition to this lottery is a matter of conscience and a question of principle, and I will never, never vote for it in any shape, form or fashion."²⁹ In addition to opposing the lot-

²³ New Orleans *New Delta*, May 30, 1890.

²⁴ Louisiana *Senate Journal*, 1890, p. 136.

²⁵ *Daily States*, June 11, 1890.

²⁶ *Ibid.*, June 26, 1890.

²⁷ Louisiana *Senate Journal*, 1890, pp. 310-312.

²⁸ *Ibid.*, pp. 312-314.

²⁹ Foster "Scrap Book."

tery on moral grounds, Foster opposed it because he feared that it would result in a split in the Democratic party. Throughout his whole political career he fought for unity in his party, for only with the Democrats in power in the state did he believe the commonwealth could prosper. In referring to the effect of the passage of the lottery bill on the Democratic party he asserted: "I believe, sir, that the submission of this amendment will precipitate the people of this state in one of the bitterest contests that Louisiana has ever witnessed, if not in civil war. It will be a contest where brother will be against brother, father against son, honest men against the purchased support of this money power. The whole State of Louisiana will be flooded with a fund of corruption."³⁰

The final vote on the bill was postponed several times as the proslavery leaders in the senate were unable to get the necessary two-third majority. After having J. Fisher Smith of Sabine Parish, who was ill, brought to the senate chamber to cast his vote, Goldthwaite moved the previous question and the prolottery forces were able to secure a vote of twenty-four to twelve.³¹ As the roll was called each senator orally cast his vote for or against the motion, with an explanation of his vote. Foster assured his colleagues that it was "for my country and her honor, for my state and her good name, for her dead, and her living, I vote no."³² These words were repeated time and time again on various occasions throughout the state during the ensuing political campaign.

The lottery recharter act provided: that John A. Morris was to be given a charter for a period of twenty-five years at \$1,250,000 per year; that the manner of distributing the money was stipulated; that Morris was to accept the provisions of the bill within a specified time; that the corporation was to be named the Louisiana Lottery Company, with a capital stock of \$5,000,000; that the corporation was to be exempt from all licenses and taxes; that all other lotteries were to be prohibited; that the secretary of state was to be instructed to publish the amendment within thirty days after January 1, 1891; and that the electorate was to vote on the amendment at the next general election.³³

After passing the senate, the lottery bill was sent to Governor Nicholls. The newspapers favorable to the lottery raised

³⁰ *Ibid.*

³¹ *Louisiana Senate Journal*, 1890, p. 327.

³² *Ibid.*, p. 334.

³³ *Louisiana House Journal*, 1890, pp. 430-432, 523-524.

the cry that the bill was a constitutional amendment; the legislature had passed the bill by a two-thirds vote; hence it was not subject to a veto. In support of their contention that the bill should be sent to the Governor for his consideration, the antilottery leaders cited article LXXV of the Constitution of 1879 which provided that "every order, resolution or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, or on matters of parliamentary proceedings, or an address for removal from office, shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved shall be repassed by two-thirds of the members elected to each house."³⁴ Governor Nicholls kept the bill for five days and then vetoed it. The antilottery element knew that the prolottery supporters wanted the bill returned early, as they feared that Smith's illness would prevent his being present to cast his vote when the Governor returned the bill. In commenting on this fact, the *New Delta*, an antilottery paper, said, "there is a bare possibility that sickness or other casualties may prevent the attendance of a member or two in either house, and in that event the bill will fail."³⁵

In his veto message Governor Nicholls refuted the claims of the prolotteryites that the finances of the state required the recharter. He stated that "at no time and under no circumstances will I permit one of my hands to aid in degrading what the other was lost in seeking to uphold."³⁶ Were I to affix my signature to the bill I would indeed be ashamed to let my left hand know what my right had done."³⁷

The house immediately passed the measure over Nicholls' veto by a vote of sixty-six to thirty-one.³⁸ In the senate some difficulty was experienced in overriding the executive vote. Smith was so ill that he could not attend the sessions, which necessitated a postponement of consideration from day to day.³⁹ Finally, despairing of Smith's return to the senate, Lloyd Posey of Orleans Parish moved that "under and by virtue of article 33 of the constitution that the Senate, with the consent of the House, shall proceed at 12 o'clock, July 10, 1890, to the Mayer Hotel, where our brother, Senator J. Fisher Smith, lies physically ill, but

³⁴ *Constitution of Louisiana*, 1879, p. 19.

³⁵ *New Delta*, July 4, 1890.

³⁶ Governor Nicholls lost an arm in the Civil War.

³⁷ *Louisiana Senate Journal*, 1890, pp. 413-415.

³⁸ *Louisiana House Journal*, 1890, p. 590.

³⁹ *New Delta*, July 8, 1890.

sound in mind, and in accordance with his request, that the Senate then and there do sit to vote upon his Excellency's veto message on the lottery amendment, which is known as Bill 214 of the House."⁴⁰ Foster immediately attacked the resolution because it provided for the sinister lottery forces to invade "the precincts of the dying man's chamber," and wring "from his pale lips upon which the seal of death has already been placed, the vote which" would "proclaim Morris as ruler of Louisiana."⁴¹ As a result of the strong opposition and the irregularity of the proposal the prolottery forces did not press it and a vote was not taken on the motion.

After the vain attempt to obtain a two-thirds vote, the prolottery senate leaders moved to commit the bill to the judiciary committee for further consideration.⁴² This committee reported that in its judgment there was "no necessity or propriety under the constitution to submit a bill proposing a constitutional amendment to the Executive for approval," and that the bill be returned to the house.⁴³ This was done following favorable action on the report by the senate. B. C. Shields of Orleans Parish moved that "it is the sense of this House that we heartily agree and concur in the action of the Senate, and adopt their reasons as ours, and that the clerk of the House be instructed to deliver to the secretary of state for promulgation enrolled House Bill No. 214 with a certified copy of the proceedings of this House on the said bill, and to take the receipt of the Secretary of State for the same."⁴⁴ Following a favorable vote in the house, the General Assembly closed its action on the lottery question and left the final decision with the courts.

Secretary of State Leonard F. Mason refused to promulgate the amendment because of irregularities attendant on its passage. Morris and the other lottery officials appealed to the state supreme court for a writ of mandamus to compel the secretary of state to promulgate the amendment.⁴⁵ In this they were successful for the court, by a vote of three to two ordered the secretary of state to promulgate the act of the legislature.⁴⁶

⁴⁰ *Louisiana Senate Journal*, 1890, p. 421.

⁴¹ *New Delta*, July 10, 1890.

⁴² *Louisiana Senate Journal*, 1890, pp. 423-424.

⁴³ *Ibid.*, p. 426.

⁴⁴ *Louisiana House Journal*, 1890, p. 628.

⁴⁵ *Daily Picayune*, February 18, 1891.

⁴⁶ *Ibid.*, April 28, 1891; *Weekly Louisiana Review*, April 29, 1891. One of the supreme court judges concurring in this decision, Samuel D. McEnery, opposed the antilottery candidate, Murphy J. Foster, for governor in 1892.

Foster and the other antilotteryites were still not ready to admit defeat; they turned to the Federal government for assistance. Senator Edward Douglas White directed the attention of Congress to the condition in Louisiana and succeeded in having the Lottery Company prohibited from using the mails. Concerning this situation, President Benjamin Harrison said that "the use of the public mails by these companies is a prostitution of an agency only intended to serve purposes of legitimate trade and a decent social intercourse."⁴⁷ The New Orleans newspapers bitterly assailed Congress for its action, and typical of the press attitude was that sentiment of the *Weekly Louisiana Review* when it stated editorially, "not only will the postmaster general and the postmasters in general be clothed with the imperial power of preventing the transmission of lottery matter and newspapers, having lottery advertisement, but to do the same with other matter as the Postmaster General may from time to time judge to be immoral."⁴⁸ Loud were the lamentations that the days of freedom of the press were numbered.⁴⁹

When Foster returned to Franklin, the antilottory leaders held a testimonial reception for him. These leaders were laying the basis for the 1892 gubernatorial campaign and were giving careful consideration to Foster's availability as their standard-bearer and to means of defeating the amendment in the general election. In addressing the guests, Foster pointed out the evils that would follow the recharter of the lottery and dramatically asked "the mothers of this land when they kneel with their little ones at prayer to teach them to pray: Lead us not into this temptation, deliver us from this evil and save us from this polluting monster."⁵⁰

On February 28, 1890, in the office of Charles Parlange, the opponents of the Lottery Company formed the Anti-Lottery League to combat the forces of Morris.⁵¹ The League called a convention to meet in Baton Rouge on August 7 and invited all who were opposed to the Company to attend. The response was highly gratifying; nine hundred fifty-nine delegates representing fifty-three of the fifty-nine parishes, registered. T. F.

⁴⁷ *New Delta*, July 31, 1890.

⁴⁸ *Weekly Louisiana Review*, August 20, 1890.

⁴⁹ *Ibid.*

⁵⁰ *New Delta*, August 8, 9, 1890.

⁵¹ Alves, "The History of the Louisiana State Lottery," 137. Among the outstanding leaders who organized the League were Frank McGloin, C. Harrison Parker, G. W. Vincent, David Zable, Charles Carroll, Rev. B. Carradine, H. W. Spear, Rev. T. W. Sawyer, James David Coleman, Charles Parlange, E. H. Belknap, and George W. Young.

Bell of Caddo Parish was elected president of the convention, and Murphy J. Foster was elected one of the vice-presidents. Plans to defeat the amendment in the general election were formulated and a resolution was adopted expressing confidence in Governor Nicholls and Senator White. The direction of the antilottery campaign was placed in the hands of the Democratic Anti-Lottery State Executive Committee of which Foster was vice-chairman.⁵²

Foster's popularity was quite evident, and the insistent demands for him to address the delegates gave the senator an opportunity to direct the attention of the state to himself. He stressed the point that a recharter of the Lottery Company would result in dishonor to the state. He was confident that the honor of Louisiana could not be purchased. "There is no market value placed upon the honor of the manhood of the people," he maintained, for "it is not quoted in the columns of the commercial papers, and the Lottery Company has made a mistake when it thinks it can buy the honor, the virtue and the manhood of this state with dollars and cents."⁵³

The prolottery element was also very active during this period. On July 29 they formed the Progressive League, the purpose of which was "to urge before the people and to endeavor to foster all measures calculated to promote the public welfare, particularly in the matter of the payment of the public debt and to promote immigration and with these ends in view, to use all honorable means to secure the adoption by the people of the proposed lottery amendment."⁵⁴ The League held regular monthly meetings in New Orleans and endeavored to extend its organization into every ward of the city and every parish of the state.⁵⁵ It published a circular entitled *The Question of the Hour*, in which an attempt was made to treat all phases of the lottery question.⁵⁶

As early as October 1890, the lines of battle were clearly drawn for the continuation of the lottery fight and the 1892 general election. During this two-year period Murphy J. Foster was in the center of the contest canvassing all sections of the state in his fight against recharter and at the same time laying the foundation for his gubernatorial campaign.

⁵² *Ibid.*, 143.

⁵³ Foster "Scrap Book."

⁵⁴ *Times-Democrat*, August 3, 1890.

⁵⁵ *Daily Picayune*, October 7, 1890.

⁵⁶ *Times-Democrat*, October 15, 1890.

CHAPTER IV

THE 1892 GUBERNATORIAL CAMPAIGN

The 1892 gubernatorial campaign proved to be one of the most bitter in the history of the state; not only was the election of state officials at stake, but also the fate of the Louisiana Lottery Company. Naturally, the main issue of the campaign was the lottery question, and each of the two contending forces sought the support of the various political and semipolitical organizations in the state.

The Anti-Lottery League recognized the strength and importance of the Farmers' Alliance and immediately made overtures to that organization for its support. At its annual meeting in 1890 the Alliance declared against the lottery amendment and appointed a committee to confer with the leaders of the Anti-Lottery League with a view to agreeing upon a mutually satisfactory program. The members of this committee were: Chairman, W. F. Norsworthy of East Feliciana, A. D. Lafargue of Avoyelles, Walter Ward of St. Landry, W. R. Womack of East Baton Rouge, and J. E. Burch of Bossier. They were to contact the Anti-Lottery League Committee and to make a report on the conference at the following annual meeting to be held in Lafayette in August, 1891.¹ The Anti-Lottery League Committee appointed to confer with the Alliance representatives was composed of Colonel J. D. Hill, John C. Vance and J. C. Moise, all of New Orleans, and Judge R. S. Perry of Iberia Parish.²

After much deliberation and discussion, the two committees reached an agreement which provided that the Alliance would incorporate an antilottery plank in its platform, and that the two political groups would work through the regular Democratic organization.³ The Alliance organization was to be given the offices of governor, treasurer, and superintendent of education, and the Anti-Lottery League was to elect the candidates for lieutenant-governor, auditor, attorney-general, and secretary of state. It was also agreed that T. Scott Adams, the President of the Farmers' Alliance, was to be the candidate for governor.⁴

¹ *Daily Picayune*, August 3, 1891.

² *Times-Democrat*, August 4, 5, 6, 1891.

³ *Daily Picayune*, August 7, 1891.

⁴ *Ibid.*, August 8, 1891.

The portion of the press favorable to the Lottery Company charged that this union was a combine designed to bring about a split in the Democratic party and would result in the ultimate defeat of that party.⁵ They further asserted that the motive of the two organizations was not opposition to the lottery, but rather a desire for political spoils.⁶ These charges brought forth vigorous denials from the leaders, who pointed out that their agreement merely provided for a united front against the lottery interests whereby they would oppose all candidates who were favorable to the recharter movement. Unfortunately, harmony did not prevail in the ranks of the Alliance. Many of them were opposed to the agreement with the antilottery people and claimed that they had been sold out and that their principles had been sacrificed. A short while later a few Alliance representatives held a meeting in Alexandria and publicly denounced the compact.⁷

The lottery interests sponsored many mass meetings in various sections of the state. At each meeting resolutions were passed praising the Democratic party and condemning the "Lafayette Combine." Some of the more important meetings were held in Natchitoches Parish,⁸ and at Opelousas and Lafayette.⁹ The antilottery men, not to be outdone, also held their mass meetings throughout the state and in this way increased their membership and gained recruits for the state campaign.¹⁰

Colonel J. S. Lanier presided at the meeting of the State Central Committee that was held in New Orleans on October 14, 1891, in the St. Charles Hotel.¹¹ A canvas of the committee membership revealed that the prolottery men had thirty-nine votes to thirty-eight for the antilottery men. The day before the meeting of the Committee, the antilotteryites submitted a proposal to the prolottery men whereby the lottery issue was to be voted on by the white Democratic voters when the delegates were selected for the State Democratic Nominating Convention, rather than at the general election. According to this plan the election would be under the control of a committee of five—two pros, two antis, and Lanier, Chairman of the State Central Committee. The proposition was declined by the prolottery men on the ground

⁵ *Ibid.*, August 3, 1891.

⁶ *Times-Democrat*, August 10, 1891.

⁷ *Daily Picayune*, October 3, 1891.

⁸ *Ibid.*, August 21, 1891.

⁹ *Ibid.*, August 31, 1891.

¹⁰ *Ibid.*, September 3, 1891.

¹¹ *Ibid.*; *Times-Democrat*, October 15, 1891.

that it would enhance the chances of fraud and that Lanier was an avowed anti. They submitted a counterproposition to the effect that the lottery amendment be referred to a white Democratic primary election to be held sixty days after the adjournment of the State Nominating Convention; that both sides would immediately discontinue their plans for holding mass meetings; that each faction would agree to abide by the result of the said primary election as an expression of the Democratic party which would be binding upon all members; that the election would be held throughout the state on the same day; and that the election would be held under the supervision of a committee of the State Central Committee, to be composed of two members of each faction and a fifth member to be mutually agreed upon by the other four. It was suggested that Robert C. Wickliffe be selected as the fifth member of the committee.¹²

The antilottery men refused to consider the counterproposal. They opposed submitting the amendment at a special election because of the expense, and they refused to discontinue their mass meetings because that was the only medium by which they could reach the public, since the press of the state was dominated by the Lottery Company. They were as strong in their opposition to Robert C. Wickliffe serving on the committee as the prolottery people had been to Lanier.¹³ Following a week of futile effort to effect a compromise, the Democratic State Central Committee adjourned until December 14, after calling a meeting of the Democratic State Nominating Convention for December 16, 1891, in Baton Rouge.

Many of the antilottery men were dissatisfied with T. Scott Adams as a candidate for governor. They believed that their chances of winning would be greatly increased if a more forceful person were selected to head the ticket. Nicholls was known to be opposed to Adams and in favor of the selection of Foster as the standard-bearer. It was rumored that Adams would never receive the united support of the Farmers' Alliance and the Anti-Lottery League and that he would eventually be asked in a public letter to withdraw from the race. Finally, on October 21, 1891, a request appeared in the *Times-Democrat* over the signature of T. Sambola Jones of Baton Rouge. Jones complimented Adams

¹² *Daily Picayune*, October 16, 1891.

¹³ *Ibid.*, October 17, 1891.

by referring to him as a great leader, but, in the name of the Louisiana Democracy, he requested him to withdraw from the contest in order to refute the accusations that had been made against the so-called "Lafayette combine."¹⁴

About this time Samuel D. McEnery, an associate justice of the Louisiana supreme court, entered the race. He had been governor from 1881 to 1888, having succeeded to the governorship in 1881 upon the death of Louis A. Wiltz and then being elected for the 1884-1888 term of office.¹⁵ He was very popular throughout the state and had refrained from stating his position on the lottery issue, although it was known that the Lottery Company was supporting him. In order to present his candidacy to the people, a great mass meeting was held in New Orleans on October 27 to indorse his candidacy.¹⁶ It was estimated that 15,000 people attended the meeting which was preceded by a parade that extended a distance of over five miles. It was stated that the Lottery Company defrayed the cost of the meeting, which amounted to approximately \$40,000.¹⁷

Not to be outdone by the McEnery followers, the Adams men held a rally in New Orleans on November 7. It failed to compare with the McEnery rally, as not more than 3,000 attended.¹⁸ The report of Adams' probable withdrawal from the race had its effect upon the size of the gathering and the candidate's reply to the reporters' query as to his intention of complying with Jones' request further hurt his chances. After indicating that he would withdraw from the race if the Alliance made such a request, the public was convinced that he was a weak candidate and would ultimately withdraw.

Sharp contests for the selection of members of the Democratic State Nominating Convention were being held throughout the state. Both sides left nothing undone in order to secure the election of their designated delegates. The antis charged the pros with resorting to bribery and stated that the back of their tickets looked so much like five-dollar bills that one could not tell whether a voter was being handed a ticket or money.¹⁹ The pro-

¹⁴ *Times-Democrat*, October 31, 1891.

¹⁵ Alcée Fortier, (ed.), *Louisiana, Comprising Sketches of Parishes, Towns, Events, Institutions, and Persons, Arranged in Cyclopedic Form*, 3 vols. (Madison, Wisconsin, 1914), II, 112-115.

¹⁶ *Daily Picayune*, October 28, 1891.

¹⁷ *Times-Democrat*, October 28, 1891.

¹⁸ *Ibid.*, November 8, 1891.

¹⁹ *Ibid.*, November 12, 1891.

lottery people accused the antis in St. Mary Parish of stealing a ballot box and counting the votes in secret.²⁰ The *Times-Democrat* made much of the incident and charged that "St. Mary methods" were not confined to that parish.²¹ Shortly before the meeting of the Democratic State Nominating Convention the report from the country returns was favorable to the antilottery candidate, but the New Orleans vote gave a tremendous majority to McEnery. All of the one hundred and thirty-nine delegates allotted to the city of New Orleans were pledged to the support of McEnery.²² The antilottery men in New Orleans planned to contest the seating of the New Orleans delegates on the ground of fraud in the election. Of the 398 delegates elected by November 24, the McEnery forces had 274 to 113 for Adams. The trend indicated that McEnery would receive more than the necessary 343 votes that constituted a majority of the delegates,²³ and by December 6 sufficient delegates were pledged to his candidacy to insure his nomination.²⁴

Prior to the opening of the convention a fight began over the selection of the temporary chairman. This officer was of great importance for he would appoint the committee on credentials, which would actually have the authority of determining who the delegates would be. Since the antis planned to contest the seating of the New Orleans delegation, they were particularly anxious to have Lanier selected as the temporary chairman. But, since the McEnery forces had a majority on the State Central Committee, they refused to consider him for the position even though it was the customary procedure. The situation was tense and all indications pointed to a stormy session of the convention, as neither faction was willing to compromise.

The day before the scheduled meeting of the convention each faction caucused. The antilottery people convened in the senate chamber, the McEnery forces met in Pike's Hall on Third Street, and each group appointed a committee to negotiate a compromise.²⁵ Donelson Caffery, who was chairman of the antilottery faction committee,²⁶ presented the demands of his group

²⁰ *Ibid.*, November 28, 1891.

²¹ *Ibid.*, November 29, 1891.

²² *Daily Picayune*, November 9, 1891.

²³ *Ibid.*, November 24, 1891.

²⁴ *Ibid.*, December 6, 1891.

²⁵ *Ibid.*, December 14, 1891.

²⁶ *Ibid.*, December 16, 1891. The members of the antilottery committee were Caffery, Hiram R. Lott, James E. Hollingsworth, E. G. Hunter, and T. P. Stubbs.

to the McEnery committee headed by General Leon Jastremski.²⁷ All frivolous contests were to be dismissed, the plan to submit the amendment at the primary election was to be abandoned, and the platform was to include an antilottery plank. As was to be expected, the lottery forces refused to treat upon such a basis and all hope of sealing the breach was lost.²⁸ When Caffery reported the results of his mission, the antis unanimously adopted a resolution to the effect "that the Democratic State Convention do meet in the Hall of the House of Representatives tomorrow, Wednesday, December 16, 1891, and proceed to business." The McEnery forces announced their intention of holding the Democratic State Nominating Convention in Pike's Hall. The split in the Democratic party became a *fait accompli*.

In accordance with the announcement, the antilottery forces and the Farmers' Alliance delegates met in the hall of the house of representatives at 12 Noon, December 16, with Lanier presiding. He called Hiram L. Lott of West Carroll to the chair as temporary chairman and T. S. Wilkinson of Plaquemines Parish was elected permanent chairman. The members proceeded to consider the most important question before the convention, the selection of a candidate for governor.²⁹ Considerable opposition to Adams had developed and most of the delegates were inclined to follow Nicholls in regard to nominating Foster. The Alliance people had to be considered, however, and an effort was made to have Adams withdraw from the race on his own volition. After considerable discussion Adams consented to withdraw, provided he was nominated by the convention and given another place on the ticket.

In accordance with the agreement, Captain T. F. Bell placed Adams' name before the convention and he was nominated by acclamation. Adams then declined the honor without any seeming resentment, but evidently he never forgave those who forced the issue upon him.³⁰ Immediately following Adams' action, the Convention recessed for two hours for the two factions to caucus and decide on a candidate to lead the fight and to complete the entire ticket. During the period of the caucuses a report was

²⁷ *Ibid.* The members of the prolottery committee were Jastremski, Col. William Robson, Capt. C. Taylor Cade, Peter Farrell, C. H. Moore, Capt. John Fitzpatrick, Col. A. W. Crandell, J. E. Poche, James D. Houston, and J. R. Hosmer.

²⁸ *Ibid.*

²⁹ *Ibid.*, December 17, 1891.

³⁰ Alwes, "The History of the Louisiana State Lottery," 190. Mr. Alwes interviewed Adams' daughter and quotes her as saying: My father was a terribly disappointed man. Reports are that he died of pneumonia; you may tell the world that my father died of a broken heart."

circulated that Foster would not accept the nomination if it were offered him. Upon the reassembling of the convention, however, A. D. Lafargue of Avoyelles placed Foster's name in nomination. The vote for Foster was favorable, and upon being notified of the action of the convention he formally accepted the nomination.³¹ In accordance with the agreement, the Farmers' Alliance named as their candidates A. D. Lafargue of Avoyelles for superintendent of education, John Pickett of Bossier for treasurer, and Adams for secretary of state. In addition to being given the governorship, the antilottery element filled the three remaining positions on the ticket. They were Charles Parlange of Orleans for lieutenant-governor, W. W. Heard of Union for auditor, and M. J. Cunningham of Natchitoches for attorney-general.³²

The prolottery forces meeting in Pike's Hall deposed Lanier as chairman of the State Central Committee and elected former Governor Robert C. Wickliffe to the position. Wickliffe thereupon called the convention to order and summoned H. P. Wells of Richland Parish to the chair as temporary chairman;³³ and Clay Knobloch of Lafourche Parish was chosen permanent chairman. The first action of the convention was to adopt a platform, in which was a plank that called for a referendum on the lottery question. The convention then proceeded with nominations, which were mere formalities since the ticket had been prepared in the caucus. The nominees for the respective offices were Samuel D. McEnery of Ouachita for governor, Robert C. Wickliffe of West Feliciana for lieutenant-governor, Leonard F. Mason of Concordia for secretary of state, O. B. Steele of Union for auditor, J. V. Calhoun of Orleans for superintendent of education, Gabriel Montegut of Terrebonne for treasurer, and E. W. Sutherland of DeSoto for attorney-general.³⁴

To counteract the activities of the lottery forces, the Foster faction held a mass meeting in New Orleans on December 23 to ratify the action of the Antilottery Nominating Convention. Colonel W. G. Vincent called the meeting to order and presented the chairman Colonel Louis Bush. The assemblage was addressed by three members of the ticket, Foster, Parlange, and Cunningham; and, in addition, James McConnell, Theodore S. Wilkinson, W. S. Parkerson, John C. Wickliffe, and Reverend B. M. Palmer

³¹ *Times-Democrat*, December 18, 1891.

³² *Ibid.*, December 18, 19, 20, 1891.

³³ *Daily Picayune*, December 17, 1891.

³⁴ *Times-Democrat*, December 20, 1891.

spoke. At this meeting a state committee composed of one member from each parish and each representative district of New Orleans, and twenty-five members from the state at large, was appointed to direct Foster's campaign.

Both McEnery and Foster conducted vigorous campaigns, which became bitter before the close of the canvass. Foster, naturally, denounced the Lottery Company; McEnery hedged on the issue. Although McEnery stated that he was personally opposed to the lottery, he favored submitting the issue to the people; and although he was opposed to raising state revenue by this means, he believed the people should decide the question.³⁵ McEnery's campaign was formally opened on January 8, 1892, with a large rally in the Washington Artillery Hall in New Orleans. The New Orleans press contributed to the success of the rally by their statements in their news columns and editorials. They maintained that the only claim to fame that the "Saint from Saint Mary" had was that he was a state senator,³⁶ while McEnery had led the fight against Negro government before becoming governor. Although McEnery did not attend the New Orleans rally, he sent a message in which he predicted the defeat of the Democratic party in Louisiana if the breach between the two factions were not healed. He made no effort, however, to heal the breach, for any compromise was to be upon his terms.

The prolottery forces accused Nicholls of applying political pressure by removing the returning board officials opposed to Foster. They charged that the returning board planned to steal the election, and a committee called upon Nicholls and requested the assurance of a fair election. This movement was for political effect, and Nicholls refused to play into their hands by making any statement other than that he would perform his duty in accordance with the law.³⁷

The internal dissension in the Democratic ranks gave encouragement to the Republicans. All was not clear sailing with them, however, for they too were divided over the lottery issue.³⁸ The Kellogg Republicans, favorable to the Lottery Company, nominated Albert H. Leonard of Caddo for governor and H. Dudley Coleman of New Orleans for lieutenant-governor.³⁹ The War-

³⁵ *Ibid.*, December 30, 1891.

³⁶ *Ibid.*, January 3, 1892.

³⁷ *Ibid.*, January 11, 1892.

³⁸ Alwes, "The History of the Louisiana State Lottery," 196.

³⁹ *Times-Democrat*, January 20, 1892.

moth forces, who were opposed to the lottery, nominated John A. Breaux of Pointe Coupée for governor and James C. Weeks of Ouachita for lieutenant-governor.⁴⁰ To add to the confusion the People's party, under the guiding force of T. A. Clayton of Orleans Parish, was quite active. Although a former member of the Anti-Lottery State Central Committee, Clayton was now aligned with the Populists. He vigorously and successfully urged the nomination of R. L. Tannehill of Winn Parish for governor and J. J. Mills of Calcasieu Parish for lieutenant-governor.⁴¹

As the campaign progressed the signs appeared unfavorable to McEnery, and the lottery forces were greatly concerned over the probable election of Foster. They were willing to sacrifice their candidates if Foster could be eliminated. In line with this plan,⁴² Morris addressed an open letter to the public in which he withdrew the Company's offer embodied in the amendment.⁴³ Many people, he was convinced, were discontented with the lottery and therefore he would not continue to operate a lottery should the amendment pass. He further emphasized the fact that he would not accept a charter even if it were given to him at no cost at all.⁴⁴

Following the publication of the Morris letter, McEnery made a plea for party harmony. He suggested that the tickets of both Democratic factions be withdrawn and a new ticket be submitted to the electorate by another nominating convention.⁴⁵ The pro-lottery executive committee submitted the proposal to the Foster executive committee;⁴⁶ and both Central Committees convened to consider the proposal.⁴⁷ Under date of February 16, 1892, Foster submitted his resignation to Wilkinson, chairman of the Anti-Lottery State Central Committee. He had neither sought nor desired the nomination, he wrote, and had accepted it as a patriotic duty only after much persuasion and he now returned it to the committee for its action in the matter.⁴⁸ Parlange did likewise, and it became imperative for the Committee to reach some decision in the premise.

The antilottery Committee refused to accept the McEnery proposal on the grounds of election costs, and its skepticism of

⁴⁰ *Ibid.*, February 18, 1892.

⁴¹ *Ibid.*, February 19, 1892.

⁴² *Daily Picayune*, February 4, 1892.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Times-Democrat*, February 9, 1892.

⁴⁶ *Ibid.*

⁴⁷ *Daily Picayune*, February 17, 1892.

⁴⁸ *Ibid.*

Morris' sincerity, and it made a counterproposal to divide the state offices between the two factions.⁴⁹ Although this was not acceptable to the McEnery supporters, it served as a compromise following a week of negotiations. In reality the compromise was a state primary election whereby the white Democratic voters of the state would select the Democratic ticket on March 22.⁵⁰ The candidates receiving the highest number of votes would represent the party in the general election.⁵¹ The primary election was to be supervised by a committee of seven, composed of three McEnery men, three Foster men, and one man selected by the six designated members. The McEnery members were John Fitzpatrick, A. W. Crandall, and Charles A. Butler; the Foster members were F. C. Zacharie, E. Howard McCaleb, and James C. Moise; and the seventh member and chairman of the committee was Colonel John S. Young. At the time of his choice Young was supposed to be independent of both factions, although when it came to voting in the committee he sided with the Foster faction.⁵²

This primary election held by the Democratic party in 1892 represents the forerunner of the party primary in Louisiana. Ohio, Pennsylvania, California, New York and certain other states had adopted a form of primary system as early as 1871;⁵³ but it was as late as September, 1903, that the Louisiana Democratic party in convention directed general primaries to be held for all state offices;⁵⁴ and it was not until 1912 that the direct primary system in Louisiana was established by law.⁵⁵ The results of the 1892 primary were far from satisfactory, as the candidates refused to abide by the results and insisted on entering the general election.

After the compromise the campaign became more bitter and vituperative. Following a meeting in New Orleans, the McEnery forces canvassed the entire state. Their principal speakers were Robert C. Wickliffe, former Senator B. F. Jonas, and Congressman J. C. Boatner. On February 23 the Foster supporters held a large rally at Washington Artillery Hall and the audience was addressed by United States Senators Randall L. Gibson and Edward Douglas White, and Murphy J. Foster, Donelson Caffery, M. J.

⁴⁹ *Ibid.*, February 19, 1892.

⁵⁰ Diedrich Ramke, "Edward Douglas White, Statesman and Jurist" (Ph.D. Dissertation, Louisiana State University, 1940), 195.

⁵¹ *Times-Democrat*, February 21, 1892.

⁵² *Ibid.*, February 25, 1892.

⁵³ Charles E. Merriam and Louise Overacker, *Primary Elections* (Chicago, 1928), 11-14.

⁵⁴ *Times-Democrat*, September 3, 1903.

⁵⁵ Robert C. Brooks, *Political Parties and Electoral Problems* (New York and London, 1923), 243.

Cunningham, and T. Scott Adams. The campaign was immediately extended to all sections of the state,⁵⁶ during which Foster asserted that every supporter of the lottery was a supporter of McEnery and predicted that if McEnery were elected the Louisiana Lottery Company with all of its evils and graft would dominate the state.⁵⁷

The hotly contested election was close and each side predicted victory on March 22. On March 26 the *Times-Democrat* gave Foster 28,445 votes and McEnery 30,461, or a majority of 2,016.⁵⁸ However, no accurate figures were available until March 30, when the committee of seven met to promulgate the returns. The indications pointed to a McEnery victory, but there were charges of fraud and the final results could not be determined until these charges were investigated and decided. By a vote of four to three, the committee threw out 3,183⁵⁹ votes in New Orleans and declared Foster to be the nominee by a majority of 549 votes.⁶⁰ The minority report declared that the election resulted in 45,557 votes for McEnery and 43,989 for Foster, or a McEnery majority of 1,570.⁶¹

Naturally the cry of fraud was raised, and some justification of the charge appeared warranted. To say the least, Foster's friends were rewarded for their political consistency, as the new Governor appointed James C. Moise a judge of the Criminal District Court of New Orleans.⁶² F. C. Zacharie as registrar of voters of Orleans parish,⁶³ and John S. Young as sheriff of Caddo Parish.⁶⁴ Consequently, it was not surprising that many people considered Foster's election a "steal," and did not hesitate to express themselves to that effect. Young denied the accusation that his vote was cast for Foster because he was convinced that the Foster faction would not abide by an adverse decision.⁶⁵

The People's party was extremely jubilant over the split that had occurred in the Democratic party as a result of the decision of the committee of seven. It complimented the committee for exposing the corruption to which the factions within the Demo-

⁵⁶ *Times-Democrat*, February 23, 1892.

⁵⁷ *Ibid.*, February 24, 1892.

⁵⁸ *Ibid.*, March 26, 1892.

⁵⁹ *Ibid.*, April 6, 1892. The votes thrown out were in the 6th ward, 1st precinct, 829; 8th ward, 2nd precinct, 539; 9th ward, 2nd, 3rd, 4th and 5th precincts, 1,815; making a total of 3,183.

⁶⁰ *Ibid.*, April 5, 6, 1892. The committee declared Foster elected by a vote of 43,602 to 43,053.

⁶¹ *Ibid.*, April 6, 1892.

⁶² *Ibid.*, July 6, 1892.

⁶³ Alwes, "The History of the Louisiana State Lottery," 200.

⁶⁴ *Louisiana Senate Journal*, 1894, p. 625.

⁶⁵ *Daily Picayune*, April 11, 1892.

cratic party had stooped in their primary election. In a broadside which was published just before the general election the People's party gave "many thanks to the Committee of Seven for the full and complete view they have afforded us of the hideous rottenness so long concealed by the bepraised and bepainting exterior" of the Democratic party.⁶⁶

The McEnery faction was not inclined to accept the decision of the committee of seven, and they continued to hold mass meetings in various sections of the state.⁶⁷ On April 7 a large meeting was held in Lafayette Square for the purpose of denouncing the action of the committee of seven and pledging continued support to McEnery.⁶⁸ The *Times-Democrat* estimated that from eight to ten thousand people attended the meeting.⁶⁹ The antilottery ticket was attacked and its leaders were accused of having stolen the election.⁷⁰ The four members of the committee of seven who had voted in favor of the Foster ticket were compared to the returning board that declared Rutherford B. Hayes President of the United States.

Just fourteen days after the decision of the committee of seven was made the general election was held. The *Times-Democrat* predicted that McEnery would be elected by a majority of eight to ten thousand votes.⁷¹ The election returns showed that Foster received 79,388 votes, while the combined vote of his opponents amounted to 98,647,⁷² with McEnery receiving 47,037 of the opposing votes. The entire Foster ticket received approximately the same vote as did Foster. The lottery amendment was overwhelmingly defeated by a vote of 157,422 to 4,225.⁷³ The cry of fraud was again raised when the returns were promulgated showing that Foster's vote was almost double that which he had received in the primary.⁷⁴ However, no court action was taken, and on May 17, 1892, Foster was seated as governor.

⁶⁶ This quotation is taken from a broadside issued by the People's Party on April 9, 1892, a copy of which may be found in the Ellis Collection in the Louisiana State University Department of Archives.

⁶⁷ *Times-Democrat*, April 16, 1892.

⁶⁸ *Ibid.*, April 7, 1892.

⁶⁹ *Ibid.*, April 8, 1892.

⁷⁰ *Ibid.*, April 13, 1892.

⁷¹ *Ibid.*, April 16, 1892.

⁷² Alwes, "The History of the Louisiana State Lottery," 201.

⁷³ *Ibid.*; Ramke, "Edward Douglas White, Statesman and Jurist," 196.

⁷⁴ *Louisiana House Journal*, 1892, p. 47. The vote was officially promulgated as follows: Foster, 79,388; McEnery, 47,037; Leonard, 29,459; Breaux, 12,359; and Tannehill, 9,792.

CHAPTER V

GOVERNOR OF LOUISIANA, 1892-1896

Few Louisiana governors have ever assumed the executive's chair faced with a more serious situation than did Foster.¹ The state was torn by political strife; revenue would no longer be received from the Lottery Company; and it was imperative that the state finances be reorganized. Opposition in the legislature did not presage the enactment of necessary constructive measures.

In his inaugural address Foster stated that his administration would encourage immigration and promote the public school system. Concerning the state finances, the Governor pledged his best endeavors to place the state government on a cash basis. Foster promised to support the Democratic party and to rededicate himself to the principles for which it stood. In regard to the factional differences, he announced his intention of dedicating his efforts to establishing peace and harmony by administering the government "with charity for all and malice toward none."²

The healing of the factional differences was the most important task confronting Foster, because upon this depended the success of his administration. The passing of time and a conciliatory attitude upon the part of the executive were essential to the promotion of harmony, and little constructive legislation was passed during the first session. The situation was further aggravated by the futile attempt of the legislature to elect a successor to Senator Randall Gibson whose term was soon to expire. Daily balloting in the house and senate failed to secure any results other than to keep alive the animosities engendered during the campaign.³ In fact, the legislature refused to consider favorably any of Foster's campaign promises except that in regard to the lottery issue. On this measure he secured a unanimous vote of those present in both chambers, and with the sixty-six votes in the house and twenty-nine in the senate⁴ the sale of lottery tickets and the practice of lottery drawings were prohibited in the state after December 31, 1893.⁵

Foster was alert to any situation that might serve to lessen the factional tension. He sensed an opportunity to bring about

¹ *Baton Rouge Advocate* (Souvenir Edition), December 6, 1898.

² *Times-Democrat*, May 17, 1892.

³ *Appleton's Annual Cyclopaedia*, XVII (1892), 424.

⁴ *Louisiana House Journal*, 1892, p. 483; *Louisiana Senate Journal*, 1892, p. 251.

⁵ When the vote was taken in the house thirty-one members were absent; in the senate seven were absent when the measure was voted upon.

a more harmonious relation in the Democratic party when the Foster State Central Committee met in Baton Rouge on June 15, 1892. Meetings for the purpose of selecting delegates to the Chicago National Democratic Convention were held while the legislature was in session.⁶ Foster pointed out the folly of sending two delegations to the Convention and suggested that the delegates be equally divided between the two factions. After considerable negotiation both groups agreed to the plan and in the joint meeting,⁷ with Theodore S. Wilkinson as chairman, they divided the delegates equally.⁸ The first step toward political unity and harmony had been made, and the Governor congratulated the members of the united Democracy and expressed the wish "to see less politics in Louisiana."⁹

Although Foster's work in reconciling the two central committees was important, the greatest single factor in uniting the people of the state, and especially of the city of New Orleans, behind his administration was his handling of the strike situation that occurred in the Crescent City during November, 1892. This was the first general strike in the nation to enlist both skilled and unskilled labor, and a false move by the Governor might have ruined him politically. More than 20,000 men from forty-two local unions, who together with their families comprised nearly half the population of the city, began a strike on November 8. Among the organizations participating in the strike were musicians, mercantile clerks, gas and water workers, electric light trimmers, streetcar drivers, and printers. They demanded the right to organize, to collective bargaining, and a preferential closed shop.¹⁰

Foster immediately announced his intention to protect the lives and property of the citizens,¹¹ but he urged that the differences be adjusted without delay.¹² The mayor increased the police force,¹³ and the *Times-Democrat* appealed to the Governor to intervene before the city was put in darkness.¹⁴ As peaceful negotiations appeared to be futile, Foster called out the Washington Artillery and other divisions of the state militia with

⁶ *Daily Picayune*, June 16, 1892.

⁷ *Times-Democrat*, June 15, 1892.

⁸ *Weekly Louisiana Review*, June 22, 1892.

⁹ *Opelousas St. Landry Democrat*, September 10, 1892.

¹⁰ Roger Wallace Shugg, "The New Orleans General Strike of 1892," in *Louisiana Historical Quarterly* (New Orleans, 1917—), XXI (1938), 547-560.

¹¹ *Times-Democrat*, November 8, 1892.

¹² *Daily Picayune*, November 7, 1892.

¹³ *Times-Democrat*, November 8, 1892.

¹⁴ *Ibid.*

the view to maintain order in the city.¹⁵ He urged the citizens not to congregate in crowds and announced his intention of using all the power at his command to maintain peace.¹⁶ The Governor's show of force convinced the strikers and employers of his determination to handle the affair, and on the following day an agreement was reached after a three-day strike.¹⁷ The strikers failed to gain all their demands, but they were granted a ten-hour day with pay for overtime and an adjustment of the wage schedules. They failed, however, to secure recognition of the Labor Union.¹⁸

The manner in which Foster handled the strike gained him the support of the New Orleans press and a large number of the legislators. The press had been affected by the printers on strike, and the New Orleans publishers were therefore very appreciative of the Governor's prompt and effective action. The people of the city in general were well pleased with the settlement, as the strike had disrupted their daily routine and business was at a standstill. Big business was gratified to have normal trade conditions reestablished, thereby ending a period of financial loss to the commercial interests of the city.

The Commercial Club gave a banquet in honor of the Governor as a token of appreciation of the New Orleans citizenry for the manner in which Foster had handled the strike.¹⁹ The *Times-Democrat* pointed out that "the banquet meant that the people had put behind them the animosities and the disappointments of the bitterest campaign in the history of Louisiana and were again united in all things essential to the well-being of the Commonwealth."²⁰ In reply to the toastmaster Foster expressed his appreciation of the compliment but maintained that he had done nothing more than perform his duty as executive of the state.²¹ The strike, however, augmented his supporters and within a short time the New Orleans newspapers were supporting his administration in their editorial columns.

Foster made several important political appointments that displayed his keen and wise judgment in working for party harmony. He named former Governor Francis T. Nicholls, one of

¹⁵ *Ibid.*, November 10, 1892.

¹⁶ *Daily Picayune*, November 11, 1892.

¹⁷ *Weekly Louisiana Review*, November 16, 1892.

¹⁸ Shugg, "The New Orleans General Strike of 1892," *loc. cit.*, XXI, 547-560.

¹⁹ *Times-Democrat*, November 20, 1892.

²⁰ *Ibid.*, December 1, 1892.

²¹ *Ibid.*

the leaders in the lottery fight, chief justice of the state supreme court.²² Following the death of Senator Randall L. Gibson, Foster appointed Donelson Caffery to the Senate in recognition of the sugar interests of the state and thereby gained the support of this powerful element.²³ With the appointment of Senator Edward Douglas White to the Supreme Court of the United States, Foster was in a position to further increase his power and prestige.²⁴ The various interests exerted considerable pressure upon him to appoint their respective candidates to the vacancy in the Senate, and the opportunity of alienating one or more groups was imminent. At that time the Senate had the tariff question under consideration, and the sugar interests clamored for a man from that area.²⁵ North Louisiana insisted that the vacancy should be filled by a leader from that section of the state and their contention seemed justifiable.²⁶ Foster, a south Louisianian, could hardly appoint two Senators from his section of the state; and, too, it was the part of political wisdom to win the support of his political opposition in North Louisiana. Therefore, he appointed Newton Crain Blanchard of Shreveport, who had opposed his election,²⁷ to the White vacancy.²⁸ Every appointment and every political move made by Foster had as its ultimate objective the unification of the Democratic party in Louisiana.

During the 1892 presidential campaign Foster actively supported Grover Cleveland for President. He toured the state urging the election of Cleveland, and pointed out that "Cleveland fits the Democratic platform and the Democratic platform fits him."²⁹ He fought unceasingly to prevent the farm element in Louisiana from joining the ranks of the People's party. In this he was successful, for Cleveland carried Louisiana by a large majority.³⁰

Foster's message to the second legislature, May 14, 1894, was more favorably received than his first.³¹ The Governor's con-

²² *Ibid.*, May 24, 1892.

²³ *Ibid.*, December 31, 1892.

²⁴ *Ibid.*, February 20, 1894.

²⁵ Frank W. Taussig, *The Tariff History of the United States* (New York, 1914), 284-320.

²⁶ *Daily Picayune*, February 25, 1894.

²⁷ *Opelousas Courier*, May 19, 1894.

²⁸ *Ibid.*, March 8, 1894.

²⁹ *Times-Democrat*, August 7, 1892.

³⁰ Edward Stanwood, *A History of the Presidency, 1788-1928*, 2 vols. (New York and Boston, 1928), I, 517. The vote for President in Louisiana was: Grover Cleveland, 87,922; Benjamin Harrison, 13,281; James B. Weaver, 13,282.

³¹ *States*, June 13, 1921.

ciliatory acts had borne fruit and he was able to secure favorable action on most of his important measures. At the opening of the session he reviewed the conditions existing in all the state institutions, pointing out that the state revenues exceeded the current governmental need and that an early liquidation of the state debt would result in a corresponding reduction of the taxes. He recommended the direct election of police juries by the people, the enactment of a suffrage amendment, and the passage of an election law.³²

The legislature did not hesitate to consider Foster's recommendations, and in a very short time bills were introduced to carry out his program. In accordance with the Governor's request an act was passed authorizing the election of police jurors in all the parishes of the state except Orleans at the 1896 general election. By this act he returned to the people a power which the governors had exercised for political purposes.³³ The legislature also complied with the recommendation for the enactment of an election law in which the time and manner of holding elections were prescribed.³⁴

Foster recommended that the suffrage amendment provide for an educational and property qualification as a prerequisite to voting.³⁵ The object, of course, was to disfranchise the Negro and thus deprive the Republican party of its greatest support and at the same time strengthen the Democratic party. The legislature complied with his request; on June 27 the senate adopted the proposed amendment by a vote of twenty-seven to nine,³⁶ and on July 5 the house concurred by a vote of seventy-four to nine.³⁷ The amendment was to be submitted to the people at the 1896 general election.

In addition to the Foster legislation the General Assembly approved several other very important bills. A constitutional amendment which the legislature passed required all railway companies in the state to provide separate accommodations for the white and colored races.³⁸ In response to a rather general demand for higher education, the legislature established the In-

³² *Louisiana House Journal*, 1894, p. 31.

³³ The police jurors had been appointed by the governors.

³⁴ *Times-Democrat*, July 13, 1894.

³⁵ *Daily Picayune*, June 22, 1894.

³⁶ *Louisiana Senate Journal*, 1894, p. 367.

³⁷ *Louisiana House Journal*, 1894, p. 836.

³⁸ *Louisiana Acts*, 1894, p. 32.

dustrial Institute and College at Ruston.³⁹ A constitutional amendment fixing the governor's salary at \$5,000 per annum was passed.⁴⁰ An attempt was made to secure the adoption of a resolution declaring it to be the sense of the legislature that United States Senators should be elected by direct vote of the people, but this resolution was indefinitely postponed.⁴¹

It was as important to Foster's political prestige that his appointees to the Senate be elected by the General Assembly as it was for the legislature to act favorable upon his state projects. Therefore, he used his power and influence in the legislature to have his appointees elected, Caffery for Gibson's unexpired term and the regular term and Blanchard for the remainder of White's term. In consequence of the Governor's activity,⁴² Caffery was approved by the General Assembly to represent the state from March 4, 1895 to March 3, 1901, and Blanchard was to serve Louisiana in the Senate until March 3, 1897.⁴³

For the first time in many years Louisiana was enjoying an era of prosperity and political peace. This condition, however, was jarred by the action of the Democratic party which shook its Louisiana contingent to its very foundation and threatened to nullify all Foster's efforts at restoring party harmony. The Wilson Tariff bill, as passed by the House, left sugar practically on the free list;⁴⁴ although the bill was amended in the Senate, the sugar planters of Louisiana felt that they had been injured by the party which they had helped to place in power. They called a meeting at the Hotel Royal in New Orleans for September 6, 1894, and this group of Democrats that came to be known as the Sugar Planters denounced their party and pledged their support to the Republicans in the coming congressional election.⁴⁵

Some of Foster's personal and political friends were among those who planned to leave the Democratic party.⁴⁶ While Foster sympathized with them, he opposed their activities for he had pledged himself to fight for the unity and preservation of the Democratic party in Louisiana. "No one feels more deeply for

³⁹ *Ibid.*, p. 33.

⁴⁰ *Ibid.*, p. 34.

⁴¹ *Louisiana Senate Journal*, 1894, p. 120.

⁴² *Ibid.*, p. 68.

⁴³ *Daily Picayune*, May 16, 1894.

⁴⁴ Taussig, *The Tariff History of the United States*, 308.

⁴⁵ *Daily Picayune*, September 7, 1894.

⁴⁶ *Speech of Hon. Murphy J. Foster, Senior Senator of Louisiana, Opening His Campaign for Re-Election, The Athenaeum, New Orleans, Tuesday, October 3, 1911* (New Orleans, 1911). Subsequently cited, *Murphy J. Foster Speech*, October 3, 1911.

the sugar planters than I do," he said, and "all that my family possess is wrapped up in the sugar interests of St. Mary." "All of my associations," he continued, "are interwoven with that interest; yet my love for my state, its peace, happiness and prosperity, and my love for the Democratic party . . . causes [*sic*] me to cling closer to the party in the hour when many of its old friends are leaving."⁴⁷

With the help of the Sugar Planters, the Republicans expected to return Republican congressmen from the first, second, and third districts, and hoped to be successful in other districts. The outlook for victory was sufficiently bright for the National Republican Committee to send Governor William McKinley of Ohio to Louisiana to campaign for their candidates. During his address in New Orleans McKinley touched lightly on the sugar issue, as he did not wish to commit his party to any definite policy, and restricted his remarks on this point to an expression of regret that Congress had not kept "the bounty contract" on sugar.⁴⁸

Foster was ably assisted by Senators Caffery and Blanchard in the fight to retain a solid Democratic delegation in Congress. Foster's numerous campaign speeches, in which he attempted to convince the farmers of the folly of leaving the Democratic party,⁴⁹ contributed to the return of a solid Democratic delegation of six members to the House,⁵⁰ and earned for the Governor the sobriquet of "the young war horse of the Democracy."⁵¹

CHAPTER VI

THE GUBERNATORIAL ELECTION OF 1896

After enjoying a short period of political quiet the people of Louisiana participated in the 1896 gubernatorial election which was one of the most bitter in the history of the state. The Negro voter was still an important factor in state politics and many demands were made for his disfranchisement. Some members of the Democratic party in the sugar-growing parishes were pledged to defeat their party in the state election, for the Wilson Tariff bill had been passed by the National Democratic House, leaving sugar practically on the free list. Various elements throughout

⁴⁷ *Daily Picayune*, September 8, 1894.

⁴⁸ *Ibid.*, October 21, 1894.

⁴⁹ *Times-Democrat*, October 30, 1894.

⁵⁰ *Daily Picayune*, November 7, 1894.

⁵¹ *Ibid.*, October 15, 1894.

the state were agitating for free and unlimited coinage of silver. Each of these three political groups were making demands and promises, and each had a tremendous influence in the gubernatorial election.

Many of the farmers throughout the state, who thought they had been treated unjustly by the Foster administration, were after the Governor's political scalp. The *Louisiana Populist* claimed that "the first thing Foster did after he was counted into office was to take the farmers by the nap of their necks and the slack of their trousers and dump them outside the party lines."¹ Rumor had it that the Louisiana Sugar Planters, the Populists, and the Republicans would unite and nominate a full state ticket in the hope of bringing about the defeat of the Democratic party in Louisiana.

Foster was the most outstanding candidate for the gubernatorial nomination in the Democratic party in 1896. The internal anti-Foster sentiment showed itself plainly at the New Orleans mass meeting held on October 22, 1895, for the purpose of solidifying opposition to the state administration.² Among the important speakers were former Senator B. F. Jonas and Secretary of State T. Scott Adams. The speakers at this meeting accused Foster of allying himself with the ring bosses of New Orleans. They also spoke in favor of making former Governor Samuel D. McEnery the Democratic nominee for governor of the state. The meeting adopted a resolution demanding white primaries in the party.³

In considering this election it will be recalled that the Democratic legislature had prepared a constitutional amendment regarding the question of suffrage, which was to be voted on by the people at the time of the state election.⁴ In addition to prescribing the usual age and residence qualifications of the voter the fifth section of this amendment also required that he "shall be able to read the Constitution of the State in his mother tongue or shall be a bona fide owner of property, real or personal, located in the state and assessed to him at a cash valuation of not less than \$200."⁵ The avowed purpose of the amendment was

¹ Natchitoches *Louisiana Populist*, September 20, 1895.

² *Times-Democrat*, October 23, 1895.

³ *Daily Picayune*, October 23, 1895.

⁴ Melvin J. White, "Populism in Louisiana during the Nineties," in *Mississippi Valley Historical Review* (Cedar Rapids, 1914—), V (1918-1919), 13-14.

⁵ *Louisiana Populist*, February 14, 1896.

the disfranchisement of most of the Negroes, as the proponents of the measure knew that very few of the colored race could read the constitution or were property owners.

Many people wondered whether McEnery would accept the Democratic nomination or would even approve of his name being placed before the convention in opposition to Foster. A newspaper correspondent asked McEnery, "Will you accept the nomination of governor tendered you by the mass meeting in New Orleans and make the contest before the State Convention?" To this McEnery replied, "I am not a candidate, and will not enter the campaign for the nomination from the convention." When shown this reply, Representative C. J. Boatner, one of McEnery's closest friends, countered with the statement that McEnery would accept the nomination if it were tendered him.⁶

A majority of the Democratic State Central Committee which met on October 24, 1895, favored Foster. The committee decided to issue a call for the State Nominating Convention to meet in Shreveport on December 18.⁷ During this meeting the way was cleared for the renomination of Foster when Boatner made public a telegram from McEnery in which the former Governor stated: "To say that I will accept the nomination is equivalent to saying I am a candidate for the same. I am not and will not go before the convention as a candidate for any one faction of the Democratic party."⁸

Shortly after the opening of the convention on December 18, Foster was nominated by acclamation;⁹ but the attempt to make the nomination unanimous was defeated by D. M. Sholars of Ouachita Parish. He closed his attack on the convention's action with the assertion that he entered his "solemn protest against the action of this convention, and on the nomination of Murphy J. Foster for reelection as governor of Louisiana, I desire to be recorded as voting no."¹⁰ The Democratic party took vengeance on him for his actions by defeating him for the Democratic nomination for senator from the twenty-third senatorial district.¹¹ The complete ticket included Murphy J. Foster for governor, R. S. Snyder, Jr., for lieutenant-governor, John T. Michel for

⁶ *Times-Democrat*, October 24, 1895.

⁷ *Ibid.*, October 25, 1895.

⁸ *Plaquemine Iberville South*, October 31, 1895.

⁹ *Times-Democrat*, December 20, 1895.

¹⁰ *Louisiana Populist*, December 27, 1895.

¹¹ *Lake Providence Banner-Democrat*, April 11, 1896.

secretary of state, A. V. Fournet for treasurer, W. W. Heard for auditor, M. J. Cunningham for attorney-general, and J. V. Calhoun for superintendent of education.

The ticket selected was composed of some of the outstanding leaders of the Democratic party in the state. Foster, of course, was well known, having been in state politics since 1880. Robert L. Snyder, from Tensas Parish, had been elected to the house of representatives in 1890 and had favored the recharter of the lottery. By placing him on the ticket the convention gave evidence that the old animosities engendered by the lottery question were a thing of the past. The candidate for secretary of state, John T. Michel from New Orleans, had been the secretary of the McEnery State Central Committee in 1892. His selection was likewise a conciliatory move. Milton J. Cunningham was a very formidable candidate for the position of attorney-general. He had been elected attorney-general in 1884 and again in 1892. Joseph V. Calhoun was well qualified for the position of superintendent of education as he had been identified with the public schools since 1863. William Wright Heard, then state auditor, had assisted Foster in reorganizing the state finances; and the candidate for treasurer, Alexander V. Fournet, had been the assessor in St. Martin Parish.¹²

In selecting the ticket the Convention had been very careful to take into consideration the geographical distribution of the candidates. Each congressional district was given representation on the slate; consequently, it was hoped that the favorite son from each district would draw support for the ticket as a whole. Likewise, each influential faction was given representation, and as a result of this careful planning the ticket prepared by the convention was a very strong one.

The platform praised the Foster administration, endorsed the suffrage amendment, and pledged the party's support to President Cleveland in regard to his policy on the Monroe Doctrine.¹³ On the silver question the convention was not so definite, and in

¹² *Daily Picayune*, December 20, 1895; Thomas W. Shields, "The Political and Social Background of the Suffrage Changes of 1898 in Louisiana" (M.A. Thesis, Louisiana State University, 1930), 49.

¹³ *Congressional Record*, 59 Cong., 1 Sess., 191; James A. Barnes, *John G. Carlisle, Financial Statesman* (New York, 1931), 409-410; James Ford Rhodes, *History of the United States from the Compromise of 1850 to the End of the Roosevelt Administration*, 9 vols. (New York, 1928), VIII, 447. In the boundary dispute between Venezuela and British Guiana, according to Rhodes, President Cleveland believed that in view of the Monroe Doctrine Great Britain should submit the controversy to arbitration. Cleveland announced his Monroe Doctrine policy in a message to Congress on December 17, 1895.

an effort to avoid this controversial question it evaded the issue by adopting a plank to the effect that the money question was a national and not a state issue. The minority report, introduced by Judge W. F. Blackman and signed by Judge Gilbert L. Dupré and George W. Montgomery, maintained that "we favor the free and unlimited coinage of both gold and silver at the ratio of 16 to 1 by the United States, without awaiting the convention of any other nation; both gold and silver to be moneys of final redemption, and the legal tenders in the payment of all debts, public and private." This minority report was rejected by a vote of 365 to 73.¹⁴ Foster accepted the platform when he delivered his acceptance speech in the convention hall.¹⁵ His entrance was an impressive sight and the tremendous ovation could not have failed to please him.¹⁶

The Democratic press endorsed his stand for a continuance of honesty in the state government and for a reform of the franchise, but criticized the convention for its failure to take a definite stand on the silver question. "One can not but be struck," said the *Times-Democrat*, "by the fact that the convention refused to consider the silver question, because it was not a State issue, and at the same time expressed its opinion on the Monroe Doctrine and the Venezuela boundary, which have certainly no place in the State campaign."¹⁷ Naturally the opposition press scored the Democrats for their position on silver, but their greatest attack was on the suffrage question. This was clearly indicated when the *Louisiana Populist* sarcastically remarked that "M. J. Foster says that he will try and have the 'crows' served as tender as possible to those who may pass their plates, so that the chewing will not be any more disagreeable than is usual on such conditions."¹⁸

While the Democratic party was busy repairing its political fences and preparing for the forthcoming campaign, its enemies were planning to bring about its defeat. A fusion ticket composed of representatives of the Sugar Planters, the Republicans, and the Populists was contemplated by certain leaders, but too many jealousies existed for the plan to be worked out easily. After considerable negotiation the scheme was evolved whereby

¹⁴ *Times-Democrat*, December 20, 1895.

¹⁵ *Daily Picayune*, December 20, 1895.

¹⁶ *Times-Democrat*, December 20, 1895.

¹⁷ *Ibid.*, December 21, 1895.

¹⁸ *Louisiana Populist*, January 3, 1896.

the Sugar Planters would propose the candidacy of Henry McCall to the Populists. If the Populists nominated McCall for governor, the Sugar Planters were to endorse his candidacy. Following this action, it was planned that the Republicans would nominate McCall during their convention, which was scheduled to meet shortly thereafter.¹⁹

On January 4, 1896, the National Republicans, composed of the Sugar Planters and their associates who had gone over to the Republican party in 1894, held their convention. It appeared to McCall that he would not be nominated without his personal solicitation, and, unwilling to do this, he placed himself in a position tantamount to withdrawal from the race.²⁰ After some deliberation the convention nominated E. N. Pugh for governor, L. F. Suthon for attorney-general, and Captain J. B. Donnally for secretary of state. The names of the nominees were to be presented to the Populist convention for their endorsement.²¹ In addition the convention adopted resolutions which called for a free election with an honest count and opposed the suffrage amendment on the ground that it was merely "a trap to maintain the Democratic party in power."

The Sugar Planters' ticket was not a very strong one and many of the Republicans and Populists readily expressed their disappointment at the selections. The disapproval appeared to be valid, for Pugh was unpopular with the Republicans and Populists for his favorable stand on the suffrage amendment. Donnally had been too active a Republican in the 1892 election to bring strength to a fusion ticket. Suthon had been affiliated with the Democratic party of Terrebonne Parish until 1884, when he joined the Republican party, and was not held in high regard by most of the Populists. Consequently, the action of the Sugar Planters failed to receive the popular endorsement that was expected.²²

The Populist party held its state nominating convention in Alexandria on January 8, 1896, with A. B. Booth, Chairman of the State Executive Committee, in the chair. Following the keynote address by the temporary chairman, J. W. McFarland, the convention elected S. J. Henry of Natchitoches Parish as per-

¹⁹ *Times-Democrat*, December 27, 1895.

²⁰ *Ibid.*, December 31, 1895.

²¹ *Daily Picayune*, January 5, 1896.

²² *Times-Democrat*, January 5, 1896.

manent chairman. Before considering the question of nominations, the convention adopted a platform which called for the "free and unlimited coinage of both gold and silver at the ratio of 16 to 1," a liberal school system, economy in state governmental expenditures, and denounced the suffrage amendment as being "concocted by political schemers to suddenly disfranchise large masses of worthy citizens."²³

The negotiations which the Populists conducted with the Sugar Planters and the Regular Republicans were unsuccessful at first, because of their inability to find a candidate for governor agreeable to all factions concerned. Finally the Populists nominated their own ticket, but this was not done until Booth of New Orleans succeeded in convincing the party leaders in a midnight caucus that he was the logical candidate for governor. After agreeing upon Booth, who received the unanimous vote of the convention the following day,²⁴ the remaining candidates were nominated with little opposition. S. Whitehead of Ouachita was selected for lieutenant-governor, J. W. McFarland for secretary of state, H. E. Nelson for treasurer, John B. Kleinpeter for auditor, Dr. G. A. M. Cook for superintendent of education, and the executive committee was authorized to designate the nominee for attorney-general. An adroit move was made by A. Benoit just before the convention adjourned, whereby he secured the adoption of a resolution empowering the State Central Executive Committee to fill any vacancies on the ticket that might occur by resignation or otherwise.²⁵

The only factor considered by the convention in selecting the ticket was the availability of the candidates. The first requisite of a candidate was that he must be a Populist; but many affiliated with the party refused a place on the ticket. Whitehead at first declined to accept the nomination for lieutenant-governor and did not acquiesce until much pressure had been exerted.²⁶ He evidently realized what became apparent to others later, that Booth was an extremely weak candidate.²⁷ Furthermore, the policy of selecting only Populists for places on the ticket defeated the plan of compromising with the other groups in the state.

Shortly after the convention adjourned various Populist leaders began to attack Booth and the Populist press began to

²³ *Louisiana Populist*, January 17, 1896.

²⁴ *Daily Picayune*, January 9, 1896.

²⁵ *Ibid.*, January 10, 1896.

²⁶ *Ibid.*

²⁷ *Times-Democrat*, January 10, 1896.

call for his resignation. "All good Populists," the *Louisiana Populist* asserted, "should at once demand Mr. Booth's resignation from the ticket and join their State Central Committee in making a ticket that will command the respect and earnest support of the party."²⁸ Benoit sent a public letter to Booth stating, "I shall second, so far as my humble influence goes, the efforts of the committee to take you off the ticket, if you adhere to your published determination not to step down and out."²⁹ Booth was adamant and publicly stated that regardless of the action of the Populist leaders he would continue to be a candidate for the good of the party.

The Populist State Central Committee disregarded Booth's statement and presented a new ticket, on which appeared John N. Pharr for governor, J. B. Kleinpeter for lieutenant-governor, J. W. McFarland for secretary of state, H. P. Kernochan for auditor, Dr. G. A. M. Cook for superintendent of education, L. F. Suthon for attorney-general, and John Pickett for treasurer.³⁰ As a compromise, Kernochan and Suthon had been placed on the ticket with the hope of securing the Sugar Planters' support, and Pharr with the view of conciliating the Republicans, as he had voted for James G. Blaine in 1884.³¹ After selecting a new ticket the Committee issued an address to the party members stating that the new ticket had been presented in the interest of party harmony with the hope that all of its members throughout the state would support it out of "patriotism and loyalty to our cause."³²

This action of the Populist committee gave indications of coalescing the Democratic opposition. Shortly after the selection of this ticket, the Sugar Planters endorsed these nominees and by resolution expressed their opposition to the suffrage amendment, and demanded a free ballot and a guarantee of a fair count.³³ The Sugar Planters hoped that by joining hands with the Populists they would be strong enough to overthrow the Democratic party in the state and thereby impress the national government with the necessity of aiding the sugar growers.

The Regular Republicans held their state nominating convention in New Orleans on January 29, 1896, to endorse the Pharr

²⁸ *Louisiana Populist*, January 24, 1896.

²⁹ *Ibid.*

³⁰ *Daily Picayune*, January 24, 1896.

³¹ *Louisiana Populist*, January 31, 1896.

³² *Ibid.*

³³ *Daily Picayune*, January 28, 1896.

ticket, "as nominated by the Populists and the National Republicans."³⁴ This "combine" of the opposition—the Regular Republicans, the National Republicans and the Populists³⁵—became formidable, which became evident to the Democrats when the Pharr ticket began to make its canvass of the state.

Following the action of the three parties, Pharr addressed an open letter of acceptance in which he promised, if elected, to guarantee the proper administration of the election laws, an honest count, and honest election returns.³⁶ The Pharr ticket was similar to that found in other southern states. In Louisiana, as elsewhere, the Populists and the Democrats were allies in the national election while in the state election the Populists joined forces with the National Republicans and the Regular Republicans. "In a number of the Southern States," according to John D. Hicks, "the Populists accomplished what a circus poster would advertise as a great dual feat; they fused with both the Democrats and Republicans. They voted the National ticket with the Democrats and the State ticket with the Republicans."³⁷ Political expediency had caused the Populists to join forces with the party which they believed would politically benefit them most.

The main issue of the campaign was the problem of Negro suffrage. The question of the free and unlimited coinage of silver and the problem of providing aid to the farmer were secondary issues. Each party attempted to secure the Negro vote, but the Democratic press was particularly vociferous in its attack on Pharr's efforts with the Negroes; the "fusion" papers were unsparing in their criticism of the Democratic party and the Foster administration. The *Iberville South* accused Pharr of thinking highly of the Negro and quoted him as saying: "I was reared with the negro and worked side by side with him for twenty odd years. I may say for all my life, I never have found him other than a good laborer and as honest as most other men. If he has cut a bad figure in politics we are to blame for it."³⁸ Pharr is the negro candidate for governor, and a vote for him is nothing more or less than a vote for negro rule," stated the *Opelousas Courier*.³⁹

³⁴ *Ibid.*, January 31, 1896.

³⁵ The Sugar Planters later assumed the name of National Republicans.

³⁶ *Louisiana Populist*, February 14, 1896.

³⁷ John D. Hicks, *The Populist Revolt* (Minneapolis, 1931), 371.

³⁸ *Iberville South*, April 11, 1896.

³⁹ *Opelousas Courier*, April 4, 1896.

In addition to editorials, effective use was made of cartoons in spreading campaign propaganda.⁴⁰

Just prior to the close of the campaign Booth announced his withdrawal from the race. In his letter of withdrawal he pledged his support of Pharr,⁴¹ but it is doubtful if his action had any effect upon the outcome of the election.

As the campaign drew towards an end, many disturbances occurred throughout the state, the most important one being in St. Landry Parish. The newspapers in Opelousas expressed the opinion that the misunderstanding in the parish grew out of registration troubles. When the sheriff failed to appear because of threats on his life, the Republicans and Populists took over the town of Washington and "went through the form of registering negroes. Counter action was taken by organized bands of white men, presumably Democrats, who undertook to maintain white supremacy by whipping and killing negroes in an effort to intimidate them."⁴²

"Opelousas, the parish seat of St. Landry," according to the *Opelousas Courier*, "was the scene of bloodshed and threatened riots last Saturday night and throughout Sunday. No matter who is to blame for the bloodshed in Opelousas last Saturday night, one thing is certain, the immediate cause of it is the unfortunate division of the people of St. Landry parish politically and the attempt of one division of whites to secure the negro vote and of the other to strenuously oppose this."⁴³ The *St. Landry Clarion* announced that if it were learned who was furnishing the Negroes with guns there would be "no hesitancy in presenting him with a health certificate for yonder world."⁴⁴

⁴⁰ Two typical examples of cartoons used in Louisiana politics at the turn of the century may be found in the *Louisiana Populist*, February 7, 1896, and the *St. Landry Clarion*, April 4, 1896.

The first carries the following legend: "This cartoon pictures the political situation in this state brought about by Murphy J. Foster, the great political schemer and harmonizer. Said Foster has harmonized the heretofore discordant factions of his party by driving out the Farmers' Alliance, the Ballot reformers, the Sugar Planters, and the Silver Democrats, and banding together the city doodlers, the court-house ringsters, and all others who are in politics solely for spoils. Said Foster has also harmonized the different elements opposed to him, by pursuing a policy of bossism and ring rule, ballot-box stuffing and debauchery of the courts, which has forced his opponents together for mutual self defense. The Silver Democrat who is last to join the 'happy family' gives Murphy J. Foster a parting reminder that his narrow, prescriptive, selfish administration has produced this result."

The second carries the following legend: "This cut, as all will see, is of a political nature, and well represents the man (Pharr) and the occasion (Easter). Captain Pharr, the nigger-pop Candidate for governor, is represented as an old setting hen, who, after the usual time, finally hatches only one chicken, 'negro domination.' The remainder of the 'eggs' (Capt. Pharr's principles) are all rotten, and greet the farmer (the voter) with nauseating fumes."

⁴¹ *Louisiana Populist*, April 17, 1896.

⁴² White, "Populism in Louisiana during the Nineties," *loc. cit.*, V, 12-14.

⁴³ *Opelousas Courier*, April 14, 1896.

⁴⁴ *St. Landry Clarion*, April 4, 1896.

The election on April 21 was disorderly and there were many charges of ballot box stuffing, fraud, and intimidation. The militia had to be called out twice to put down riots.⁴⁵ Reports were common that in New Orleans each party brought its Negro supporters to the polls escorted by armed guards to prevent the opposition from interfering with them.⁴⁶ Owing to irregularities in Natchitoches, Vernon and Livingston parishes it was several days before the results were known.⁴⁷ Both sides claimed victory; but on April 27, after estimating Pharr's vote in the three parishes, the returns indicated that the Democratic ticket was elected.⁴⁸

As soon as the unofficial returns became known, the Democratic papers taunted the opposition with various editorials and doggerel; typical of the latter was:

GW'IN PHARR AWAY!
(Air—"Old Cabin Home")

My name am Cap'n Pharr,
An' I'm gwine to leabe you now.
To my Ole Salt Ribber Home I am a gwi'in
An' I'll take my ole bazoo,
An' I'll sing dis little song,
Way down in my Ole Salt Ribber Home!
Dere we will be a band of brud-dud-ers
Kleinpeter, too, an' me an' all de Odders.
An' on a big ole Pickett
I'll hang de Rep-Pop ticket,
Way down in my Ole Salt Ribber Home!⁴⁹

The fusion ticket was not inclined to accept the decision and charged a "steal," fraud, and "vote buying." The *Louisiana Populist* demanded an investigation of the returns and stated that "Pharr is willing to have his vote investigated, and if Foster's vote is an honest one, there could be no reason for not going behind the returns."⁵⁰ The Democratic State Central Committee issued an address in which it declared that Foster had been honestly elected governor, and furthermore promised that during

⁴⁵ Paul Lewinson, *Race, Class and Party* (New York, 1932), 77-78.

⁴⁶ George M. Reynolds, *Machine Politics in New Orleans* (New York, 1936), 22-24.

⁴⁷ *Daily Picayune*, April 25, 1896; Shields, "The Political and Social Background of the Suffrage Changes of 1898 in Louisiana," 39.

⁴⁸ *Times-Democrat*, April 27, 1896. The unofficial returns gave Foster 109,241 votes to 82,100 for Pharr.

⁴⁹ *St. Landry Clarion*, May 2, 1896.

⁵⁰ *Louisiana Populist*, May 8, 1896.

the ensuing administration there would be held a constitutional convention which would eliminate the "ignorant mass" from politics.⁵¹ The *Banner-Democrat* warned the Pharr leaders that force would be met with force.⁵² The State Republican Committee announced that "Captain J. N. Pharr, the undoubtedly elected governor of the State of Louisiana by an honest majority of the legal voters of the State, will be present on that occasion, prepared to assert and maintain the rights of the people against all usurpers."⁵³

The passions of the people were aroused as a result of the election, and, except in war time, "it is doubtful if the people of Louisiana have ever been confronted with a graver crisis than that which developed during the three weeks following the election."⁵⁴ Baton Rouge was filled with armed partisans of both sides as the time neared for the meeting of the legislature which was to promulgate the election returns. On the day on which the legislature convened supporters of both parties filled the capital city to see that their respective candidates received justice. With many of the people armed, a physical struggle between the two parties seemed inevitable.⁵⁵ Pharr and his followers established headquarters on the north side of the State House, while Foster and his supporters held on to the state government from the governor's office in the capitol.

On May 14 Senator W. E. Howell presented to the General Assembly a memorial from John N. Pharr and J. B. Kleinpeter requesting that the legislature go behind the election returns. P. J. Trezevant of Caddo Parish moved that the memorial be laid on the table, and without objection it was so done. On the motion of Trezevant, the committee of nine tellers appointed by the chair were instructed to proceed to examine and count the votes cast for governor and lieutenant-governor. The majority report as submitted by the tellers declared that the vote showed Foster was elected governor and R. H. Snyder, Jr., lieutenant-governor. After some discussion the General Assembly, by a vote of 87 yeas to 47 nays, accepted the majority report and, consequently, Foster and Snyder were declared duly elected.⁵⁶ The vote by which the

⁵¹ *Daily Picayune*, May 5, 1896.

⁵² *Lake Providence Banner-Democrat*, May 9, 1896.

⁵³ *Daily Picayune*, May 6, 1896.

⁵⁴ White, "Populism in Louisiana during the Nineties," *loc. cit.*, V, 12-14.

⁵⁵ *Times-Democrat*, April 30, 1896; Shields, "The Political and Social Background of the Suffrage Changes of 1898 in Louisiana," 59.

⁵⁶ *Louisiana Senate Journal*, 1896, p. 22.

General Assembly accepted the majority report of the tellers was indicative of the relative strength of the two candidates in the legislature.

The election returns by parishes, as promulgated by the General Assembly, are illuminating and indicate the validity of several conclusions. The silver issue influenced few voters, for in the twelve parishes from which the delegates to the nominating convention unsuccessfully attempted to have incorporated a silver plank in the platform the Democrats won by a fairly large majority.⁵⁷ On the other hand, the large sugar parishes of St. Mary, Iberia, Vermilion, and Terrebonne gave substantial majorities to the fusion ticket. The fusion newspapers maintained that the Negro vote elected Foster. This was strongly denied by the Democratic press, which accused Pharr of having carried the Negro vote.⁵⁸ While it is impossible to ascertain definitely how the Negroes did vote, a careful analysis of the election returns reveals certain peculiarities in regard to the Negro vote.

Foster carried a total of thirty-four parishes; of these, twenty-two had a Negro majority registered. Of the twenty-five parishes carried by Pharr, only four had a Negro majority registered. Thus, on a percentage basis, 64.7% of the Foster parishes had a Negro majority registered, while only 16% of the parishes carried by Pharr had a Negro majority registered. The total registration for the thirty-four Foster parishes showed that there were 106,380 white to 93,773 Negro registered voters. In the twenty-five Pharr parishes the ratio was 57,708 white to 36,574 Negro registered voters. Considering the vote of the individual parishes it appears that Foster carried a majority of the parishes in which the Negro had a majority of the registered voters, but considered as a whole there was a majority of approximately 13,000 white registered voters.⁵⁹

The remarkable thing about the Negro vote was that it did not defeat the Democratic party, especially since that party itself was pledged to support an amendment to the constitution designed to disfranchise a majority of the Negroes. The amendment was defeated by a vote of 34,671 to 3,534,⁶⁰ while its Democratic sup-

⁵⁷ The twelve parishes were Acadia, Avoyelles, Claiborne, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupée, Red River, Sabine, St. Landry and Webster.

⁵⁸ *Daily Picayune*, May 7, 1896.

⁵⁹ In the Appendix will be found a table giving the vote for governor in the election of 1896 by parishes, and also giving the registration of voters as of January 1, 1897.

⁶⁰ *Times-Democrat*, April 30, 1896.

porters were successful at the polls by a 25,902 majority. On the face of the returns this situation appeared difficult of explanation; however, the Democratic leaders did not stress the amendment during the last twenty days of the campaign, for they realized that such a policy would be politically unwise. Thus the election results appear to be contradictory. Foster was reelected but the suffrage amendment was defeated. This made it inevitable for Foster to seek a solution of the franchise question during the early days of his second administration.

CHAPTER VII

FOSTER'S SECOND ADMINISTRATION, 1896-1900

Foster's second inaugural address was largely a review of the progress made during his first administration. He stated that the credit of the state had been reestablished, and a large part of the interest-bearing debt had been retired; racial antagonism had almost ceased to exist; the school and levee systems of the state had been improved; and much of the barren land in the state had been settled by immigrants. He pointed out the need of suffrage legislation, inasmuch as the suffrage amendment had been defeated at the previous election by a vote of 34,671 to 3,534.¹ In conclusion, he stated that, "with love and pride for my native State, . . . I this day solemnly consecrate my labors, my energies and my ambition to her honor, her glory, and her good name."²

The legislature was not a harmonious body; it was composed of Populists, Citizen Leaguers,³ Republicans, and Democrats.⁴ On most of the important legislation during the 1896 session a majority of the Citizen Leaguers voted with the Democrats except in the case of selecting the United States Senator. The Republicans and Populists stood together in their opposition. The house of representatives was composed of ninety-eight members, seventy-one of whom usually voted Democratic, while the Populists and Republicans controlled about twenty-seven.⁵ The Democratic leader in the lower house was P. J. Trezevant of Caddo Parish, the Republican whip was W. A. O'Neill of St. Mary, and the Populist spokesman was J. W. Bailey of St. Landry. The senate was composed of thirty-six members, thirty of whom were Democrats and

¹ *Times-Democrat*, April 30, 1896.

² *Ibid.*, May 19, 1896.

³ The Citizen Leaguers were a faction within the Democratic party; they were centered in New Orleans.

⁴ *Murphy J. Foster Speech*, October 3, 1911.

⁵ *Louisiana House Journal*, 1896, Appendix.

the remaining six were divided between the Republicans and the Populists. In the senate W. E. Howell was the leader of the opposition;⁶ and in the General Assembly Foster could count 101 Democratic to 33 opposition votes. The outlook for the Governor's legislative program was bright, but the majority of the legislators refused to follow his leadership on the question of selecting a United States Senator.

In his message to the legislature, Foster reviewed the conditions of the various state institutions and promised he would submit specific recommendations from time to time for the consideration of that body.⁷ The outlook for the enactment of constructive legislation was not particularly bright, however, in spite of the Democratic majority. The situation was rather aggravated by the fight to select a United States Senator to succeed Blanchard.⁸ The two leading candidates were Blanchard, who was favored for reelection by the administration, and Walter Denegre. Many of the Democrats could not agree whether to stand by the administration and solidly support Blanchard or to support Representative Andrew Price. As the balloting progressed, the Republicans, the Populists, and many of the Citizen Leaguers joined forces and bent every effort to elect Denegre.⁹ The fusion of these elements gave Denegre almost enough votes to secure his election.¹⁰ Foster realized that the conditions were serious. He was determined not to allow Louisiana to be represented in the United States Senate by a Populist or a Republican, and as he could not secure the election of Blanchard he planned to throw the administration support behind his political opponent, Samuel D. McEnery.

Foster wired McEnery to come to Baton Rouge for a meeting; and, following this conference, the administration threw its support to McEnery.¹¹ Even with the active support of the McEnery Democrats in the legislature,¹² Denegre was defeated by only two votes.¹³ Thus, by his action in effecting a reconciliation with McEnery, Foster had again saved his party from defeat at the hands of the Republicans and the Populists. Shortly after his election, in an address to the legislature McEnery paid glowing

⁶ *Daily Picayune*, May 12, 1896.

⁷ *Times-Democrat*, May 13, 1896.

⁸ *Daily Picayune*, May 20, 1896.

⁹ *Ibid.*, May 27, 1896.

¹⁰ *Times-Democrat*, May 27, 1896.

¹¹ *Murphy J. Foster Speech*, October 3, 1911.

¹² *Times-Democrat*, May 29, 1896.

¹³ *Daily Picayune*, May 29, 1896.

tribute to Foster's efforts to unify the Democratic party of the state. "I have witnessed the efforts of your governor, made to unify and solidify the party," he stated. Any "interest he has taken in the election of a senator has been solely in the interest of the unity and integrity of the party."¹⁴

It was Foster's opinion that his administration was committed to a revision of the election laws, including the suffrage qualifications. In his special message to the legislature on June 24, 1896,¹⁵ Foster recommended that there be called a constitutional convention to "put a stop to the voting of the large mass of ignorance and venality to the great detriment of the Commonwealth."¹⁶ In addition, he urged the legislature to pass an election law which would embody the Australian ballot.¹⁷

Shortly after the session convened debate was begun on the proposed call for a constitutional convention and for a new election law. In regard to the call for the constitutional convention, the point debated was whether or not the call should limit the convention. Foster and his administration favored a limited convention, for the action of the previous constitutional convention in legislating Governor Francis T. Nicholls and his administration out of office was still fresh in his memory. Some of the newspapers of the state and the Republicans and Populists did not want any restrictions placed upon the convention, for they claimed that would be hampering it. After considerable debate on this question, the bill calling for a restricted convention was passed in the house by a vote of fifty-nine to thirty-six.¹⁸ In the senate the administration leader, Albert Estopinal, president *pro tempore*, was successful in securing a favorable vote of twenty-five to seven.¹⁹

On July 7, 1896, Foster signed the bill calling a constitutional convention. It provided that the convention was to have full power to frame and adopt a new constitution without submitting it to the people. The proposal for calling a convention was to be voted on by the electorate of the state at a special election to be held on the second Tuesday of January, 1898. It also enumerated the subjects upon which the convention was

¹⁴ *Times-Democrat*, May 29, 1896.

¹⁵ *St. Landry Clarion*, July 4, 1896.

¹⁶ *Louisiana Senate Journal*, 1896, pp. 231-236.

¹⁷ *Daily Picayune*, June 25, 1896.

¹⁸ *Louisiana House Journal*, 1896, p. 417.

¹⁹ *Louisiana Senate Journal*, 1896, p. 296.

prohibited from acting. The convention was not to change the levee system of the state, it was to leave intact the terms of office and salary of members of the General Assembly, state, district, parochial and municipal officers. It could not remove the constitutional prohibition against lotteries, nor was it to remove the state capital from Baton Rouge.²⁰

The opposition to the election law, as introduced in the General Assembly, attacked the measure for giving the governor power which, they said, would enable him to control the election machinery and name his successor.²¹ Senators W. E. Howell and Clay Elliott led the fight against the measure in the senate. They maintained that the measure would not only place too much power in the hands of the executive, but would also practically disfranchise a large number of good citizens unable to read and write. Senator S. McC. Lawrason ably defended the measure, and on his motion the bill was approved by a vote of twenty-three to nine.²² The bill passed the house on the motion of Trezevant by a vote of seventy-eight to fifty-five, over the opposition led by O'Niell.²³ This act provided for the manner of holding and conducting elections; for the method by which nominations should be made and certified; and for the appointment of officials to conduct elections.²⁴ These two victories were the greatest accomplishments of the first legislative session of Foster's second administration.

In 1896 an issue arose that temporarily appeared to have caused a permanent schism in the Democratic party of the state. With the nomination of William Jennings Bryan for president and the adoption of the silver plank by the regular Democratic National Convention,²⁵ Senator Donelson Caffery refused to follow the party. He issued a statement in which he maintained that he was a true and loyal Democrat, but he could not support a Democratic party which had for its nominee William Jennings Bryan, an exponent of silver radicalism.²⁶ Foster immediately pledged his support to Bryan; consequently, a permanent breach appeared imminent.

²⁰ *Louisiana Acts*, 1896, pp. 85-86.

²¹ *Times-Democrat*, July 1, 1896.

²² *Louisiana Senate Journal*, 1896, p. 325.

²³ *Louisiana House Journal*, 1896, p. 470.

²⁴ *Louisiana Acts*, 1896, p. 193.

²⁵ Rhodes, *History of the United States*, IX, 18-19; M. R. Werner, *Bryan* (New York, 1929), 78.

²⁶ *Times-Democrat*, July 3, 1896.

The National Democratic party was organized by the Democrats who refused to follow Bryan and his silver plank.²⁷ Caffery was a prime mover in the calling of the mass meeting in New Orleans on August 27.²⁸ Not only did the members of the meeting pass resolutions condemning Bryanism, but they also elected sixteen delegates to the convention of the National Democratic party to be held in Indianapolis.²⁹ The Louisiana delegation, under the leadership of Caffery who was the permanent chairman of the convention,³⁰ voted for the nomination of John M. Palmer and Simon Bolivar Buckner as standard bearers and for the insertion of the gold plank in the party platform.³¹

With Foster as the leader of the Bryan Democrats and with his relative, Caffery, at the head of the "goldbug" faction a sharp battle in the state appeared imminent. In support of his party regularity, Foster stated, "I am a Democrat and as long as I am a Democrat I will always believe in the wisdom of the majority of my party."³² This placed Caffery on the defensive. He was forced to protest his adherence to the Democratic party, and at the same time charge that "Bryan was the product of colossal political treason and treachery."³³

Although McKinley was elected by a landslide vote, Louisiana remained in the Democratic column, as the Palmer and Buckner ticket did not receive more than 1,300 votes in the entire state.³⁴ Foster emerged from the fight stronger politically, for his successful leadership added to his prestige and the Louisiana Democracy remained regular and united.

As the time for the election of delegates to the constitutional convention approached, Foster exerted his influence to have men chosen who would not betray the people's trust.³⁵ He supported men who advocated honest elections and urged the disfranchisement of "the ignorant masses" by constitutional provisions. Dur-

²⁷ Werner, *Bryan*, 85.

²⁸ *Daily Picayune*, August 27, 1896.

²⁹ *Times-Democrat*, August 28, 1896. In addition to Caffery the delegates were T. M. Miller, E. H. Farrar, M. R. Spelman, L. P. Bryant, Theo. E. Davis, Charles Janvier, Leigh Carroll, William Porcher Miles, T. J. Shaffer, C. N. Randolph, A. Goodwill, D. C. Dawkins, G. McD. Brumley, W. F. Kernan and J. Burruss McGehee.

³⁰ Stanwood, *A History of the Presidency, 1788-1928*; I, 55; Caffery, "The Political Career of Senator Donelson Caffery," 31.

³¹ *Daily Picayune*, September 3, 1896.

³² *Ibid.*, August 14, 1896.

³³ *Times-Democrat*, October 19, 1896.

³⁴ E. M. Violette, "Donelson Caffery, a Louisiana Democrat Out of Line," in *Louisiana Historical Quarterly*, XIV (1931), 527-529; Stanwood, *A History of the Presidency, 1788-1928*, I, 567. According to Stanwood the vote for President in Louisiana was: McKinley, 22,037; Bryan, 77,175; Palmer, 1,915.

³⁵ *Times-Democrat*, December 10, 1897.

ing the campaign the Governor defended the proposed changes in the suffrage law and pleaded for the erection of "a more lasting and enduring monument to their [the Confederate veterans] memory than marble, granite and bronze by engrafting on the organic law of the State the great and imperishable principle for which they fought and struggled, that the intelligence, the virtue and the manhood of the Caucasian shall preside over and rule the destinies of the State for generations to come, and thus attest that those who have suffered for the cause and gone before have not fought and died in vain."³⁶ At the election on January 11, 1898, the people of the state approved the proposal to call a constitutional convention, by a vote of 44,210 to 6,115.³⁷ In New Orleans the vote was 14,000 to 1,500 in favor of the convention.³⁸ All the delegates selected were Democrats, with the exception of one Populist Independent and one Democratic Republican.³⁹

The Governor exercised great influence in the convention as was shown by the results of its labors.⁴⁰ Foster men were elected to the important positions and S. McC. Lawrason, administration leader in the senate, was elected second vice-president. Another strong Foster leader in the convention was the Governor's law partner, J. Y. Sanders of St. Mary. These leaders had much to do with writing into the organic law of the state the suffrage provisions advocated by Foster. The convention limited the franchise to the best qualified citizens;⁴¹ and in an effort to refute the charge of dictatorship that had been hurled at Foster, the convention made the governor ineligible to succeed himself. This amendment as framed stated that no "person who shall have been elected, qualified and served as governor under this Constitution shall be eligible as his own successor; provided however, that he may again be eligible to the office at the expiration of one or more terms after the term for which he shall have served."⁴² Foster, therefore, has the distinction of being the last governor in the history of the state to succeed himself.

On June 6, 1898, the citizens of New Orleans, by a vote of 6,272 to 394 approved the imposition of a two-mill tax for forty-three years to provide a system of waterworks, free sewerage,

³⁶ *Ibid.*, January 4, 1898.

³⁷ *Semi-Weekly Times-Democrat*, January 14, 1898.

³⁸ *Daily Picayune*, January 12, 1898.

³⁹ *Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana, 1898* (New Orleans, 1898), Appendix.

⁴⁰ *States*, June 13, 1921.

⁴¹ *Official Journal of the Constitutional Convention of 1898*, 38.

⁴² *Ibid.*, 24.

and public drainage. The municipal government wished to issue 4% serial bonds, dated July 1, 1900, and maturing in 1950 against the tax so that the public improvement works could be started immediately.⁴³ As the Constitution did not specifically grant political subdivisions the authority to issue bonds under such circumstances, the New Orleans press and a group of the leading citizens of that city requested the Governor to call a special session of the legislature to remedy the situation.

Although Foster was sympathetic to the New Orleans request, he delayed definite action for some time. He realized that the state would be called upon to bear a large part of the expense of a special session wholly for the benefit of New Orleans. He was soon convinced, however, that the country parishes were as anxious as the city to have authority to issue bonds, and for this reason he decided to issue the call. In the proclamation, Foster restricted the action of the legislature to two subjects, an appropriation for the improvement of the capitol and legislation necessary to carry into effect Article 281 of the Constitution of 1898. Such legislation was to enable municipal corporations, parishes and drainage districts to incur debt, issue bonds, and levy special taxes.⁴⁴

In accordance with the provisions of the call, the legislature was in session from August 8 to 21. The Governor pointed out in his recommendations that the "growing sentiment in behalf of public sanitation and internal improvements has found expression in the various towns, cities and districts throughout the State, and they likewise, seek legislative action to carry into effect Article 281 of the Constitution, whereby they may raise the funds necessary to secure these public improvements,"⁴⁵ and that various improvements on the statehouse were needed. The short session of the legislature disposed of the matters contained in the call. An act authorizing the city of New Orleans to issue bonds, subject to constitutional ratification, was enacted.⁴⁶ Also, an act was passed which authorized municipal corporations, parishes, and drainage districts to call elections to incur debt and issue bonds to finance the costs of public improvements, when the proper agency was petitioned by one-third of the property taxpayers, both in

⁴³ *Daily Picayune*, August 8, 1899.

⁴⁴ *Louisiana Senate Journal*, 1899, p. 3.

⁴⁵ *Ibid.*, pp. 4-5.

⁴⁶ *Louisiana Acts*, 1899, pp. 6-7

number and amount.⁴⁷ The legislature further provided for the improvement of the capitol and grounds to the amount of \$10,000.⁴⁸

Governor Foster was a firm believer in the good neighbor policy, and he exerted his influence to foster a program that would cement a lasting friendship with Central America. In accordance with this policy, the Governor began a good-will tour of those countries in February, 1897. He paid his respects to governmental officials of the several countries visited, among the more important of whom was President Don Raphael Yglesias of Costa Rica.⁴⁹ Foster's visit to San Jose was most pleasant, and in Cuba he visited Mrs. Maceo, widow of the Cuban leader, General Antonio Maceo.⁵⁰

During Foster's eight years as governor, the state experienced many important incidents that were not connected with politics. The state suffered untold financial damage, as well as the loss of many lives, from the terrible storm and flood of 1893.⁵¹ Louisiana had not recovered from this disaster when the fearful drought of 1894 descended with particular severity upon thirteen parishes. Again in 1897, the great Mississippi flood wrought havoc and desolation in the Lower Valley. In all these trials, as in the case of political turmoil, Foster served the state effectively and by his courage and fortitude engendered like attributes in the people. The majority of the citizens were willing to follow his leadership, for it had been successful in accomplishing those things which Foster had promised his people.

CHAPTER VIII

FOSTERISM AND THE UNITED STATES SENATE

The 1900 Louisiana gubernatorial election was one of the mildest and quietest since the Civil War. During his eight years as governor, Foster had succeeded in rectifying many of the evils of reconstruction. The Democratic party in the state was united and prepared to combat any local opposition.

As early as November 23, 1899, the political prognosticators, who were sponsoring the candidacy of W. W. Heard, predicted

⁴⁷ *Ibid.*, pp. 7-15.

⁴⁸ *Ibid.*, pp. 4-5.

⁴⁹ *Daily Picayune*, March 7, 1897.

⁵⁰ *Ibid.*, March 10, 1897.

⁵¹ Fortier, *Louisiana, in Cyclopedic Form*, I, 453-454.

that the Democratic State Nominating Convention would select him for governor. This was based upon the fact that Heard had been Foster's right-hand man in financial matters during his two administrations. They maintained that with Foster's political blessing Heard was certain to receive the nomination.¹ Those who claimed that the governor was supporting Heard spoke without authority from Foster, as he did not openly favor any candidate. Throughout the preconvention period he stated that he would not favor any particular candidate. Foster realized that if he actively supported any candidate for the nomination he would be accused of dictating to the convention. His political influence at that period was so great that a mere indication of his preference for Heard would have been a great asset to the latter's candidacy.² He knew that Lieutenant-Governor R. H. Snyder and state senator S. McC. Lawrason were also candidates for the nomination,³ and that each had a strong following. He was forced to weigh the situation carefully because of his own candidacy for the United States Senate. Foster, however, was not a person to avoid an issue, and it was not surprising that he finally threw his open support to Heard.

When the convention met on December 21, 1899, there was a stampede to Heard. The Foster influence was such that it gave rise to the standing joke: "When the next convention comes around, they [the delegates] will ask the master from St. Mary [Foster] what his wishes are, and then forward their proxies, and thereby avoid a disagreeable journey to Baton Rouge."⁴ Little opposition to Heard and the other nominees on his ticket developed in the convention. The standard-bearers were W. W. Heard for governor, Albert Estopinol for lieutenant-governor, John T. Michel for secretary of state, Walter Guion for attorney-general, Joseph V. Calhoun for superintendent of education, Ledoux E. Smith for treasurer, and W. S. Frazee for auditor. The Convention went on record in its platform as approving Foster's "conservative and businesslike administration." It complimented the Governor for placing the state on a cash basis, and pledged the party to continue his administrative policies.⁵

¹ *Daily Picayune*, November 22, 1899.

² *Ibid.*, December 21, 1899.

³ *States*, June 13, 1921.

⁴ *Daily Picayune*, December 22, 1899.

⁵ *Ibid.*

The major portion of the opposition consisted of the "goldbugs" and the disappointed office seekers. These malcontents joined with the Republicans and Populists, after considerable negotiation that culminated in a conference held in New Orleans on February 20, 1900. A ticket was formed and a platform announced in which the Foster faction was denounced for its legislation pertaining to elections.⁶ Foster regretted very much that his kinsman and fellow townsman, Donelson Caffery, Jr., accepted the nomination for governor, but this did not influence Foster's fight for the regular party in the least. The other candidates on the fusion ticket were D. M. Sholars for lieutenant-governor, C. Taylor Cade for secretary of state, O. H. Deshotels for auditor, George Hassinger for treasurer, W. G. Wyly for attorney-general, and O. B. Staples for superintendent of education.⁷

The "goldbug" ticket was particularly vulnerable to attack as Caffery and Sholars were bolting Democrats. The Cafferys had been recipients of honors from the Democratic party; consequently, their action was all the more unpardonable. Donelson Caffery, who had received the appointment to the United States Senate from Foster, had bolted the party, and, when his son joined the "goldbugs," it convinced the regular Democrats that the Cafferys were devoid of appreciation and lacked an understanding of party loyalty and regularity. Senator Caffery realized the impossibility of being returned to the Senate at the expiration of his term in 1901 if the legislature remained Democratic.⁸ Consequently, he and his son threw their whole support to the fusion ticket with the hope that the Foster faction would be defeated. Sholars, to a less degree, was in the same category as the Cafferys. It was true he had opposed the nomination of Foster in 1896, but later he sought political preferment at the hands of the Governor and became embittered when he failed to receive recognition. In his speech of March 6, 1900, Foster made clear the reason of Sholars' defection when he made public the latter's letter in which he stated, "I most respectfully apply for appointment to the position of State bank examiner under the provision of Article 1894 of the Consitution of 1898 and Act 368 of 1898."⁹

⁶ *Opelousas Courier*, February 24, 1900.

⁷ *Times-Democrat*, February 21, 1900.

⁸ Violette, "Donelson Caffery, a Louisiana Democrat Out of Line," *loc. cit.*, XIV, 527-529.

⁹ *Times-Democrat*, March 6, 1900.

Fosterism or the so-called dictatorship was the main issue of the campaign. The questions of Negro suffrage and the free and unlimited coinage of silver were relegated to the position of secondary importance. The fight was taken to Foster. The opposition was vituperative in its criticism not only of his administration but of the Governor himself. It became imperative for Foster to campaign in his own defense and he was a main attraction at Heard's opening campaign rally in Donaldsonville on March 3, where he carefully avoided all personalities and devoted his remarks to a review of the eight years of his stewardship.¹⁰

On the other hand, Caffery accused the Governor of being a dictator. He charged that candidates for public office were nominated by the Governor, the people were registered by the Governor, and their votes were counted by the Governor; and, consequently, the people had no voice in the government.¹¹ Scholars accused Foster of consummating a deal with Heard in return for the latter's support of Foster's Senatorial candidacy.¹² Although it was largely a campaign of personalities, Heard was spared to a large extent since he was not so well known; most of the attack was directed at Foster. An example of the type of campaign waged by Donelson Caffery, Jr., was his speech at Abbeville on March 16, 1900, in which he asserted "that his throat was blistered from telling about 'Fosterism.' Telling about 'Fosterism' would blister anybody's throat."¹³

Foster toured the state with the Heard ticket not so much for the purpose of speaking in favor of Heard, but in order that he might be able to answer the incredulous charges that were being made against himself and his administration. He defended the work of the constitutional convention of 1898,¹⁴ and stated that if his administration had not been satisfactory to the people of Louisiana they were to hold him personally responsible and not the Democratic party.¹⁵ He admitted having made many errors, but added that "all men make mistakes and because I have sinned don't destroy the Democratic party; strike down the sinner. If I have been recreant in my duty, strike me down, but for God's sake don't destroy the Democratic party."¹⁶

¹⁰ *Ibid.*, March 4, 1900.

¹¹ *Daily Picayune*, March 9, 1900.

¹² *Ibid.*, March 13, 1900.

¹³ *Ibid.*, March 17, 1900.

¹⁴ *St. Landry Clarion*, March 10, 1900.

¹⁵ *Daily Picayune*, March 13, 1900.

¹⁶ *Ibid.*, March 11, 1900.

As the campaign progressed it became more and more evident that the Democratic party would be retained in power by a tremendous vote of confidence. As the date of election drew near the fusion candidates grew desperate and their attacks upon Governor Foster became more numerous and bitter. Heard was accused of being "a shadow of Foster," and it was claimed that his election would mean a continuation of "Fosterism."¹⁷ In a speech in his home city of Franklin, Foster said that Senator Caffery was an honorable man, and he had nothing to say about his character, but he did accuse him of turning against the party that had honored him with a senatorial toga.¹⁸

The election resulted in a landslide for the Democratic party, with the Heard ticket receiving 59,792 votes to 13,729 for the Caffery ticket.¹⁹ In addition, the people returned a complete Democratic legislature and emphatically endorsed Foster and "Fosterism."²⁰ The *St. Landry Clarion* of Opelousas characterized the election results when it asserted that "the Democrats carried everything that wasn't nailed down or too hot to handle in last Tuesday's election."²¹

After eight years of political turmoil,²² Foster relinquished the governor's chair to Heard on May 21, 1900. The following day the legislature unanimously elected Foster to succeed Caffery at the expiration of his term on March 3, 1901.²³ In graciously accepting the honor, Foster pledged himself "to dedicate to my party, my state and my country, the best talent" that he possessed.²⁴

CHAPTER IX

SENATOR FROM LOUISIANA

Foster centered his interests in the United States Senate on three major objectives: tariff on sugar, rate legislation, and flood control in the Mississippi River Valley. He seldom spoke on the Senate floor during the twelve years he was a member of that body. On not more than four occasions did he deliver a prepared speech, but these were well received by his colleagues. His most effective work was done in the various committees of

¹⁷ *Ibid.*, April 8, 1900.

¹⁸ *Ibid.*, March 18, 1900.

¹⁹ *Ibid.*, April 20, 1900.

²⁰ *Louisiana House Journal*, 1900, pp. 516-518; *Louisiana Senate Journal*, 1900, p. 338.

²¹ *St. Landry Clarion*, April 21, 1900.

²² *Ibid.*, May 23, 1900.

²³ *Louisiana Senate Journal*, 1900, p. 43.

²⁴ *Murphy J. Foster Speech*, October 3, 1911.

which he was a member, and in personal contacts. That he was well liked by his colleagues and exercised certain influence in the Senate was revealed by his committee assignments. He was a member of the committees of Claims,¹ Commerce,² Coast Defense, Enrolled Bills, Military Affairs, Patents, Interstate Commerce,³ and Appropriations.⁴

During the time Foster served in the Senate many of the more active and outstanding post-Reconstruction statesmen were his colleagues. Of the many liberals whose influence was being felt in the upper house of Congress, the more important were Senators Robert M. LaFollette of Wisconsin, Albert B. Cummins of Iowa, William E. Borah of Idaho,⁵ Albert J. Beveridge of Indiana,⁶ Jonathan P. Dolliver of Iowa, and Joseph L. Bristow of Kansas.⁷ Of equal intellectual stature and influence were such conservatives as Marcus A. Hanna of Ohio,⁸ Joseph B. Foraker of Ohio,⁹ John C. Spooner of Wisconsin,¹⁰ George F. Hoar of Massachusetts, and Nelson W. Aldrich of Rhode Island.¹¹ Irrespective of political affiliation these men had much to do with shaping public opinion and determining legislative programs for the nation. Foster failed to gain national recognition comparable to that secured by many of these men, but he rendered effective service to his constituents.

The political situation that developed in Louisiana made it necessary for Foster to be a candidate to succeed himself for a second six-year term only three years after taking his seat in the Senate. There was a growing popular demand for a preferential popular vote on the Senatorship as a guide for the General Assembly in making the selection. As the time for the 1904 state election approached, the Democratic newspapers strongly condemned the convention method of nomination and vigorously advocated the adoption of the primary system for the Democratic party. As such questions were decided by the Democratic State Central Committee, the advocates of the primary system centered

¹ *Congressional Record*, 57 Cong., 1 Sess., 387-388.

² *Daily Picayune*, January 3, 1904.

³ *Congressional Record*, 59 Cong., 1 Sess., 537-538.

⁴ *Ibid.*, 62 Cong., 1 Sess., 3.

⁵ Claudius O. Johnson, *Borah of Idaho* (New York, 1936), 114-116.

⁶ Claude G. Bowers, *Beveridge and the Progressive Era* (New York, 1932), 225-226, 385-389.

⁷ *Congressional Record*, 62 Cong., 1 Sess., 3.

⁸ Herbert Croly, *Marcus Alonzo Hanna, His Life and Work* (New York, 1912), 375.

⁹ Joseph Benson Foraker, *Notes of a Busy Life*, 2 vols. (Cincinnati, 1917), II, 213-271.

¹⁰ *Congressional Record*, 57 Cong., 1 Sess., 2.

¹¹ Nathaniel Wright Stephenson, *Nelson W. Aldrich: A Leader in American Politics* (New York, 1930), 177-187, 286-318, 341-360.

their efforts on the members of this Committee.¹² The popular reaction to a change of nomination methods caused many of the progressive candidates for office to endorse unqualifiedly the primary system. Judge N. C. Blanchard, one of the leading candidates for governor, came out for the primary system for nominating state officers.¹³ Foster, whose political acumen was at least as keen as Blanchard's, requested that the Committee make the same requirements for the Senatorship as for the state officers and bind the legislature to accept the verdict of the primary.¹⁴ Foster knew that he was still popular in Louisiana and that the General Assembly would receive a mandate to reelect him at its session in 1904. His law partner, J. Y. Sanders,¹⁵ who was a member of the State Central Committee, joined forces with Blanchard and they were successful in their fight, for the primary system was adopted by a unanimous vote.¹⁶

At first it appeared that Foster would be returned without opposition; but several of the country newspapers were unfriendly to him and they began a search for an opposition candidate. Although none of the prominent political leaders was willing to enter the contest against Foster, the opposition press began to espouse the cause of B. F. Jonas, who had served in the United States Senate for a short time following 1879. Probably the first to advocate his candidacy was the *St. Helena Echo*, when it expressed the opinion that Jonas would receive many votes around Greensburg, Louisiana, if he should become a candidate.¹⁷ Jonas was in a receptive mood and he consented to run on the platform that Foster was a dictator.

The cry of dictator was popular and all the old original anti-Foster forces as well as the disappointed office seekers supported Jonas. Typical of the charge against Foster was the appeal of the *Farmerville Gazette* to the "Citizens of Louisiana," when it asked: "Why should you longer lick the boots of Murphy J. Foster? True, you were enslaved by him for about twelve years, and licked his boots as became obedient servants, but now you are free. The constitution of 1898 and the action of the State Central Committee emancipated you. Do you love your old master? If so, we will cease to advise. If you are men we call upon you for the exercise

¹² *Times-Democrat*, August 19, 1903.

¹³ *States*, June 13, 1921.

¹⁴ *Ibid.*

¹⁵ *Times-Democrat*, September 3, 1903.

¹⁶ *Ibid.*

¹⁷ *Greensburg St. Helena Echo*, October 23, 1903.

of your citizenship."¹⁸ Jonas confined himself to the charge of "bossism" and stated that Foster, during the past twelve years, had been "the dictator, made the appointments, dictated the candidates and the acts at the constitutional convention. He was the man who controlled the machinery of the Democratic party and governed the party and it obeyed."¹⁹

Jonas accused Foster of having stolen the governor's election in 1896 and charged that he "had been counted into office by a Democratic legislature."²⁰ The charge of political dishonesty proved to be a boomerang, for Foster pointed out that Jonas was attacking the Democratic party; it was the Democratic legislature which promulgated the election returns. Therefore, said Foster, if the legislature were dishonest the Democratic party was dishonest; and, yet, Jonas was asking that dishonest party to elect him to the Senate. The Foster press pointed to the record of Jonas in the United States Senate and accused him of being a Negro sympathizer. "As to the charge that Mr. Jonas, on being elected to the United States Senate in 1879 had pledged himself to stand in the National Council for all the political rights of the negroes," said the *Picayune*, "there is nothing strange."²¹

Foster realized that an extensive campaign was unnecessary and remained, for the most part, in Washington attending the sessions of the Senate.²² Such action was justified on the ground that the fight to defeat the Cuban Tariff bill was being waged at that time.²³ He did, however, tour parts of the state, and in his speech in Claiborne Parish he attempted to refute the charges of dictatorship. The people of Louisiana would not allow themselves to be bossed, he stated, and it was "an insult to every intelligent man in the State," to indulge in such "political clap-trap."²⁴ In addition to his few visits in the state, Foster issued letters to the press and his campaign headquarters issued statements refuting charges made by Jonas and his followers.

As was expected, Foster was nominated by an almost two to one vote.²⁵ This was equivalent to election and when the legislature convened in 1904, is accepted the mandate of the people and

¹⁸ *Farmerville Gazette*, quoted in *Opelousas Courier*, January 9, 1904.

¹⁹ *Daily Picayune*, October 30, 1903.

²⁰ *Ibid.*, December 24, 1903.

²¹ *Ibid.*, January 13, 1904.

²² *Ibid.*, November 8, 1903.

²³ *Ibid.*, December 13, 1903.

²⁴ *Semi-Weekly Times-Democrat*, January 15, 1904.

²⁵ *Times-Democrat*, January 20, 1904; *Daily Picayune*, January 30, 1904. The vote was 42,990 for Foster and 26,122 for Jonas.

unanimously elected Foster to succeed himself for the term beginning March 4, 1907.²⁶ He was thus assured of a period of service of almost nine years, which added to his prestige and influence with his colleagues. Upon Foster's return after the election, Senator Anselm J. McLaurin of Mississippi expressed the sentiment of many of the successful Louisianian's confreres when he stated: "I do not know the gentleman who has been Mr. Foster's opponent, but I am exceedingly glad that Senator Foster has been successful. I have learned to esteem him very highly since he came to the Senate, and I wish to say that his public services are very useful. If he had been defeated, the Senate and the country at large would have missed him, as he is one of the men in official life who cannot well be spared."²⁷

During his address to the legislature following his reelection,²⁸ Foster expressed his views on the more important issues of the day and maintained that "the government should be administered economically and impartially. Free trade is impossible and impracticable. It should, therefore, be the purpose, as it is the duty, of our party to so wisely and conservatively revise and readjust the customs tariff as to impose its burdens as equally and justly as possible, upon the whole people, affording equal opportunity to all in the struggle for life."²⁹

Foster had expressed this same sentiment in his first major speech in the Senate on December 12, 1903, during the fight on the Cuban bill. Cuba had become a protectorate of the United States following the Spanish-American War and American commercial interests had made large investments in the island. In a report to President Theodore Roosevelt on existing conditions in Cuba, November 27, 1901, Elihu Root recommended that commercial arrangements be made with the Havana government whereby Cuban interests would find it profitable to trade with the United States.³⁰ In carrying out this recommendation, President Roosevelt sent a message to Congress in which he submitted a treaty providing for a reciprocal trade agreement with the government. In urging its adoption the President expressed the view that the treaty "secures to the United States economic advantages as great as those given to Cuba."³¹

²⁶ *Louisiana House Journal*, 1904, p. 76.

²⁷ *Daily Picayune*, January 26, 1904.

²⁸ *Louisiana House Journal*, 1904, p. 68.

²⁹ *Daily Picayune*, May 19, 1904.

³⁰ Rhodes, *History of the United States*, IX, 182.

³¹ *Congressional Record*, 58 Cong., 1 Sess., 163; Arthur Wallace Dunn, *From Harrison to Harding: A Personal Narrative Covering a Third of a Century, 1885-1921*, 2 vols. (New York and London, 1922), I, 36.

That part of the treaty which menaced the sugar industry and, therefore, caused much opposition from the sugar growers provided that, "while this convention is in force no sugar imported from the Republic of Cuba and being the product of the soil or industry of the Republic of Cuba shall be admitted into the United States, at a reduction of duty greater than 20 per cent of the rates of duty thereon as provided by the tariff act of the United States approved July 24, 1897."³² The cane and beet sugar people and the tobacco growers were opposed to reciprocity because the Cuban products came in competition with those of the United States. As Louisiana was a cane producing state it was natural that Foster opposed the reciprocity features on the ground of unfair competition with the sugar growers of his state. The sugar planters affirmed that they could not compete with the planters of Cuba because of higher costs of production and a shorter growing season. The cost of production of cane sugar in Cuba ranged from one to one and one-half cents per pound, while in Louisiana the cost averaged three cents.³³

During one of the Senate executive sessions in which the Cuban treaty was considered, Foster spoke at length in an attempt to defeat it. He pointed out that Cuba was enjoying an era of "unprecedented prosperity" and did not need any relief that might be afforded by the treaty. The Louisianian declared the eighty-eighth article of the treaty to be unconstitutional, for he believed it deprived Congress of the right to regulate revenue in regard to Cuban sugar for a period of five years. After his address, William Allison, Joseph Blackburn, and Joseph Bailey commended Foster for having left nothing unsaid; and Russel Alger of Michigan remarked to him, "you told the truth a little too strongly."³⁴ Certain Republicans stated to Foster privately that they were favorably inclined to his arguments, but for party reasons they were required to vote for ratification.³⁵ The treaty had the support of President Roosevelt and most of the Republican leaders, among whom were Marcus A. Hanna of Ohio, who supported it because he believed that we were morally obligated to enter into a treaty of reciprocity with Cuba.³⁶ Many of the Democrats supported the treaty because they feared the annexation of Cuba if

³² *Congressional Record*, 58 Cong., 2 Sess., 169; Benjamin H. Williams, *Economic Foreign Policy of the United States* (New York, 1929), 283-284.

³³ *Times-Democrat*, December 13, 1903.

³⁴ Foster "Scrap Book."

³⁵ *Ibid.*

³⁶ Croly, *Marcus Alonzo Hanna*, 375.

it were not adopted. These factors contributed to the fifty-one to sixteen vote for ratification.³⁷

Following the ratification of the treaty the president *pro tempore* of the Senate laid before that body House Bill No. 1921, better known as the Cuban bill.³⁸ It was designed to carry into effect the convention, and, in addition, it authorized the President, after receiving "satisfactory evidence that the Republic of Cuba has made provision to give full effect to the articles of the convention between the United States and the Republic of Cuba, . . . to issue his proclamation declaring that he has received such evidence, and thereupon . . . all articles of merchandise being the product of the soil or industry of the Republic of Cuba, which are now imported into the United States free of duty, shall continue to be so admitted free of duty, and all other articles of merchandise being the product of the soil or industry of the Republic of Cuba imported into the United States shall be admitted at a reduction of eighty per centum of the rates of duty thereon, as provided by the tariff act of the United States approved July twenty-fourth, eighteen hundred and ninety-seven, or as may be provided by any tariff law of the United States subsequently enacted."³⁹

This bill caused sharp and extensive debate in Congress in which practically every interested Senator spoke to the question. Foster was in the center of the fight to make the treaty ineffective by defeating the measure. George Perkins of California expressed the belief that the enactment of the Cuban bill would not bring about competition with local sugar, as the price of sugar in the United States depended on the world market. The total output of Cuban sugar, he maintained, could not upset the world price, and the reduction would leave "a protection of 78 per cent on raw sugar and 82 per cent on refined," which he thought would "be quite sufficient for the encouragement of any enterprise."⁴⁰ Porter J. McCumber of North Dakota defended the measure and stated that he believed the American people were morally obligated to grant Cuba certain concessions as the result of an expressed or implied statement that in return we would favor her

³⁷ This treaty was ratified in secret executive session. The debates which took place before its ratification are, therefore, not available.

³⁸ *Congressional Record*, 58 Cong., 2 Sess., 11.

³⁹ *Ibid.*, 13; 33 *United States Statutes at Large*, Ch. 1; Harry F. Guggenheim, *The United States and Cuba: A Study in International Relations* (New York, 1934), 107-109.

⁴⁰ *Congressional Record*, 58 Cong., 2 Sess., 239-240.

goods in our market. It was, therefore, our moral duty to fulfill this promise by passing the bill.⁴¹

Foster waged a fight to protect the sugar growers of the United States that merited better results than he was able to secure. Not only did he make one of the few speeches of his career against the bill, but he sought aid from his colleagues on the basis of personal friendship.⁴² His arguments appeared convincing to the sugar interests, but the country at large was not friendly to the important Louisiana industry. In beginning his arguments against the bill, Foster stated that the proponents favored its passage for three reasons.⁴³ First, in answer to the argument that the United States out of kindness for humanity should come to the assistance of the Cubans, he maintained that charity should begin at home. Cuba, he argued, was not in need of financial assistance in the form of a trade agreement, for it then had a higher per capita wealth than the United States. After quoting extensively from the *Washington Evening Star* to prove his contention, he pointed out that cane grew almost "spontaneously" in the island and would reproduce itself for ten years with little cultivation. He then asked why any "American citizen should wish to stimulate and encourage and bring into active competition the products of that island against similar products in our own country."⁴⁴

Foster maintained nothing was farther from the truth than the contention that the government of the United States was morally obligated to accord concessions to Cuban goods in American markets. Not only did he deny the existence of any moral obligation, but he challenged the proponents of the bill to substantiate the assertion, for there were no official records binding the government to such a policy. If, he asked, such obligation existed, when, where, and upon whose authority was it assumed?⁴⁵

In regard to the third argument of the Senators that a trade agreement should be consummated with Cuba in order to open new markets for American manufactures, Foster contended that such a plan would result in a loss to the Federal treasury. The Federal government, he maintained, would lose from \$35,000,000 to \$40,000,000 in a five-year period, which would not be counter-

⁴¹ *Ibid.*, 247.

⁴² Stephenson, *Nelson W. Aldrich*, 293.

⁴³ *Congressional Record*, 58 Cong., 2 Sess., 153.

⁴⁴ *Ibid.*, 155.

⁴⁵ *Ibid.*, 156.

balanced by the increased trade.⁴⁶ The twenty per cent reduction of the import duty on sugar, he pointed out, would enable the Sugar Trust to purchase Cuban raw sugar at a price below production costs in Louisiana. Under such a system the Trust would sell the refined Cuban sugar at the market price of Louisiana refined sugar and thereby make an unreasonable profit at the expense of the domestic producers. In other words, he argued, the sugar planters would lose and the Treasury Department would have an annual reduction of \$7,000,000 in revenues.⁴⁷

After attempting to refute the arguments of the proponents, Foster explained his reasons for opposing the bill. "The citizens of the State, which I have the honor in part to represent in this body, relying on the good faith of this Government," he said, "have invested in sugar properties and sugar factories over \$100,000,000. More than 200,000 of our people are directly dependent on this industry for their livelihood and occupation, and this to them means the ultimate destruction of this great interest."⁴⁸ Then appealing for assistance from his southern colleagues, he entered the hope that the neighboring southern states, "who have shared with us the trials and sufferings of the years gone by," will not "join in this unjust assault upon this industry of a neighboring Commonwealth, to secure a few paltry dollars that will flow into the coffers of their own cotton factories." In conclusion, Foster maintained that the Louisiana interests deserved consideration, for the state had cheerfully discharged all her obligations to the Union. In fact, he continued, Louisiana had contributed more soldiers during the Spanish-American War in proportion to her population than any other state and certainly her record on all counts was equally commendable. Therefore, he felt that with propriety he could "justly call upon all the Senators in this body not to make her the first and most certain victim of this great war of humanity."⁴⁹

Chauncey Depew of New York in replying to Foster accused him of injecting sectionalism into the debate. He claimed that there was no justification for reviving old animosities and "while Louisiana is interested, yet there are also interested the Territories of Arizona and New Mexico and the States of Colorado,

⁴⁶ *Ibid.*, 157.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*, 162; Russell H. Fitzgibbon, *Cuba and the United States, 1900-1935* (Menasha, Wisconsin, 1935), 208.

⁴⁹ *Congressional Record*, 58 Cong., 2 Sess., 163.

Kansas, Michigan, Montana, Nebraska, Nevada, Utah and New York, all of them sugar producing States, and producing in the aggregate three times as much as does the State of Louisiana."⁵⁰ The Senator strongly urged the adoption of the measure, for he believed that by helping Cuba we were helping ourselves. "Cuba imports \$60,000,000 worth of goods annually, of which we sell \$20,000,000. They are all articles we either produce or manufacture . . .," said the New Yorker, and, "With the concessions in our favor by this treaty we ought to have all of Cuba's market. It will grow with the population and in time amount to \$200,000,000."⁵¹ Depew believed that the United States was morally obligated to the Republic of Cuba.⁵² He pointed out that the Cuban government in its constitution gave the United States control over sanitation in the island and it granted coaling stations and harbor facilities for the use of the United States Navy. By accepting these preferences the Senator believed that this country had morally and legally obligated itself to reciprocate by granting certain concessions to the Cubans.

Alexander Clay of Georgia took issue with Foster on the question of injury to the sugar industry or any other industry with the passage of the bill. "I do not want under any circumstances to strike down an industry of Louisiana. Far be it from me," said the Georgian. "I love her like I do Georgia. I believe that we are mistaken in regard to the effects of this legislation."⁵³ Furnifold Simmons of North Carolina, while agreeing with Foster that Cuba was in a state of comparative prosperity, favored the measure as a means of establishing "desirable and permanent trade relationships between Cuba and this country."⁵⁴

Speaking in opposition to the measure, Thomas Patterson of Colorado expressed the view that he "would be false to every obligation that rests upon a Representative were I to sit idly and silently by while legislation was being enacted that Congress itself does not desire, that is being forced upon an unwilling Congress by an overzealous President."⁵⁵ Patterson predicted that if the Cuban bill were adopted, in due time a bill granting concessions to the Philippines would follow and then "the American Sugar industry will soon thereafter lie in its grave." Henry

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, 166.

⁵² Fitzgibbon, *Cuba and the United States*, 208.

⁵³ *Congressional Record*, 58 Cong., 2 Sess., 171.

⁵⁴ *Ibid.*, 243.

⁵⁵ *Ibid.*, 253.

Teller of Colorado opposed the measure. "I say here that, in my judgment," Teller contended, "the Cubans will practically get no benefit from the reduction, but it will go into the pocket of the great combination known as the 'sugar trust'."⁵⁶ After the bill had been thoroughly considered, the Senate finally agreed to close the debate and vote on the measure on December 16, 1903. Foster and his associates, although they had waged a hard fight, lost, as the Senate passed the Cuban bill by a vote of fifty-seven to eighteen. A majority of the opponents of the bill as recorded in the final vote were from the sugar and tobacco growing regions of the Union.⁵⁷

Foster, like all other Democrats, was theoretically in favor of tariff reduction, but he contended that it should apply only to certain commodities. In reality he was a protectionist, for while he claimed to believe in "a reduction of the tariff," he did "believe in the application of free trade only in spots."⁵⁸ It was natural, therefore, that he should attempt to maintain as high sugar rates in the Payne-Aldrich Tariff as possible. In his effort to protect the sugar growers he aligned himself with the conservative Republicans in their fight against the insurgents in their attempt to lower rates.

When President William H. Taft called Congress into special session on March 15, 1909, to revise the tariff,⁵⁹ it was thought the revision would be downward. Nelson A. Aldrich of Rhode Island, chairman of the Senate Finance Committee to which the measure was referred, willed otherwise.⁶⁰ But Taft was insistent in regard to the tariff on imports from the Philippines, for he had been governor of the islands and definitely favored granting them certain commercial advantages. The concession that affected Louisiana most called for the entry of 300,000 gross tons of Philippine sugar into this country duty free.⁶¹ Foster opposed this concession vigorously and won Aldrich over to this

⁵⁶ *Ibid.*, 257.

⁵⁷ *Ibid.*, 286. Those voting against the measure were Joseph Bailey and Charles Culberson of Texas, Thomas Martin and John Daniel of Virginia, James Taliaferro and Stephen Mallory of Florida, Murphy J. Foster and Samuel D. McEnery of Louisiana, William Bate and Edward Carmack of Tennessee, Thomas Bard of California, James Berry of Arkansas, Fred Dubois of Idaho, Anselm McLaurin of Mississippi, Edmund Pettus of Alabama, Francis Newlands of Nevada, Henry Teller of Colorado, and Benjamin Tillman of South Carolina.

⁵⁸ Murphy J. Foster *Speech*, October 3, 1911.

⁵⁹ Henry F. Pringle, *The Life and Times of William Howard Taft*, 2 vols. (New York, 1939), I, 425.

⁶⁰ W. H. Ward, "Mr. Taft and Tariff Revision," in *The Independent* (New York, 1848-1928), LXVII (1909), 149-151.

⁶¹ José S. Reyes, *Legislative History of America's Economic Policy toward the Philippines*, in *Columbia University Studies in History, Economics, and Public Law* (New York, 1897-), CVI (1923), No. 2, pp. 113-114.

point, but the President was adamant and the Chairman was forced to yield to the wishes of the Executive. Foster, although not acquiescing in the agreement, recognized Aldrich's position and realized his inability to defeat the plan. The bill as reported by the committee incorporated the wishes of the President regarding the Philippine Islands duty-free sugar. It provided, however, that all foreign sugars imported into the Islands should pay the United States tariff duties and that the Philippine sugar producers of less than five hundred tons per year were to be given preference in the matter of free entry of sugar into the United States.⁶²

Joseph L. Bristow of Kansas was a member of that small group of seven Senators known as the Progressives.⁶³ They were opposed to the trusts and favored the downward revision of the tariff. From the very beginning of the tariff session of 1909 they "opposed the bill which the Payne-Aldrich forces planned to foist upon the people."⁶⁴ Bristow was especially interested in having the tariff reduced on sugar; whenever possible he sponsored amendments to reduce the tariff rates in order that foreign sugar might come in competition with the domestic industry. His apparent motive in doing this was to benefit the sugar industries of Cuba, Hawaii, the Philippines and other American territories. On the whole Foster was successful in combating Bristow's efforts, but he was forced to be on the alert at all times. During the discussion of that part of the tariff pertaining to the Philippines Bristow offered two amendments. One of these was designed to remove the provision that required the application of the American tariff to sugar imported into the Philippines; the other was to remove the regulation granting preference to Philippine sugar producers of less than five hundred gross tons per year for export to the United States.⁶⁵ He attacked the bill and the Committee for the discrimination in favor of sugar and tobacco, particularly in regard to applying tariff rates to these two items when imported into the Islands. Furthermore, Bristow countered that the Islands consumed a large amount of imported sugar and to that extent were mistreated.⁶⁶ Aldrich

⁶² *Congressional Record*, 61 Cong., 1 Sess., 1513.

⁶³ Stephenson, *Nelson W. Aldrich*, 479, footnote 18. Those listed as Progressive are Albert J. Beveridge, Joseph Bristow, Robert M. LaFollette, Moses Clapp, Albert Cummins and Knute Nelson.

⁶⁴ Benjamin Parke DeWitt, *The Progressive Movement* (New York, 1915), 69.

⁶⁵ *Congressional Record*, 61 Cong., 1 Sess., 3186.

⁶⁶ *Ibid.*, 3182.

immediately defended the action of the Committee and pointed out that if the United States tariff rates on sugar were not applied in the case of these importations into the Islands it would be possible to import sugar from Java and Sumatra for export to the United States duty free. The Philippine Islands, he asserted, at the time did not produce 300,000 gross tons of sugar per year.⁶⁷

Foster followed Aldrich in an attack upon Bristow's amendments, which resulted in verbal clashes between the Louisianian and the Kansan. Foster pointed out that should the Philippines import low-grade sugars from nearby islands for their own consumption they could export their total crop to the United States duty free. This would put American domestic sugar in unfair competition that would destroy the domestic industry. In directing this fact to the attention of his colleagues and pleading for some relief to the American growers he continued that, "unless some provision of this kind is placed in this bill, does he [Bristow] not think there would be a great danger of the Filipino people importing cheap sugars from Java and the surrounding islands, thus enabling him to ship their entire product to this country, while consuming what may be necessary of these cheap sugars from adjoining islands?"⁶⁸ When Bristow replied that the bill did not treat the Philippines fairly, Foster inquired, "Does the Senator from Kansas think that if this enactment goes through . . . that it would be fair to the sugar producers of this country to permit the Philippine Islands to buy their sugar from Java and the other surrounding countries at a low rate of duty and then consume that sugar and ship all the products of the islands to this country free?"⁶⁹ In answer, Bristow stated that he was discussing the question from the standpoint of Filipino interest and on this basis he felt that it would be fair to admit 300,000 tons annually. Foster retorted that he was "discussing it from the standpoint of the American producer." Bristow reiterated that the Filipinos were not being treated fairly by giving them permission to export to the United States 300,000 gross tons of sugar duty free and at the same time denying them the right to import duty free sugar from other countries.⁷⁰

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, 3183.

⁶⁹ *Ibid.*, 3187.

⁷⁰ *Ibid.*

In the fight against Bristow's second amendment Foster pointed out that the purpose of the bill in granting preference to producers of five hundred gross tons or less was to encourage the smaller producers of sugar in the Islands. The bill was further designed to prevent speculators in the United States, Germany, and England from exploiting the Filipinos. This statement prompted Bristow to inquire of Foster whether he would be "willing for such a provision to apply to the State of Louisiana—limiting the production of any one sugar factory there to 500 tons?" When Foster replied in the negative, Bristow asked why such a limitation would benefit the Filipino and not the Louisiana growers. Foster confined his explanation to the statement that he believed it was to the best interest of the American producer to keep the Islands from being exploited by large corporations, as that would result in the destruction of the small planters in that country.

In the give and take during the debate between Foster and Bristow, the Louisiana Senator maintained that the Philippine sugar producers were in a poor financial condition and that there could be no large factories established without the aid of foreign capital. On the other hand, by the preference given the small planter, he would be enabled to establish small factories which would improve the financial conditions. The bill, therefore, would not only benefit the American sugar planter but the Filipino grower as well. Bristow countered with the argument that the larger the factory the better quality of sugar could be produced and that the restriction would make impossible a system of large factories which would preclude any competition with the domestic product.⁷¹ He believed that unless there was an efficient means of refining sugar in the Islands the only purchaser would be the American Refining Company; consequently, he wanted the restriction removed.

Bristow came to realize that his amendment was doomed to defeat and offered a substitute that preference be given to producers of one thousand tons per year instead of to those of five hundred tons.⁷² This caused Elmer J. Burkett of Nebraska to remark that it was "going a little too far to pledge ourselves to buy all his [Filipino's] product and then put him on a basis to buy on better terms than we could and to buy of other coun-

⁷¹ *Ibid.*, 3189.

⁷² *Ibid.*, 3190.

tries than where he sells."⁷³ Francis Newlands of Nevada added that the purpose of the bounty was to benefit the people of the Islands and not the sugar trust.⁷⁴ William Stone of Missouri contended that if the United States tariff were not enforced in the Philippines they would buy foreign sugar, import it into the Islands, and then send it to the United States as Philippine sugar duty free.⁷⁵ Bristow, realizing the trend of sentiment, called for the yea and nay vote on the first amendment, which was lost by a vote of forty-nine to eleven, even though his fellow progressives—LaFollette, Dolliver and Cummins—were favorable to the amendment.⁷⁶ The substitute motion which increased the preferential rating of producers from five hundred to one thousand gross tons was defeated by a *viva voce* vote.⁷⁷

It was during the discussion of the proposed sugar rates that Foster, on May 25, 1909, reviewed the tariff history on sugar. He pointed out that since the first tariff act of the United States in 1789 "a duty has always been imposed on sugar, with the solitary exception of the McKinley bill."⁷⁸ In other sugar producing countries, he informed the Senate, consumers paid higher prices for sugar than the American public.⁷⁹ Since no hardship was being imposed upon the American consumer by a high tariff, he did not see why there should be a demand for a downward revision.⁸⁰

As a result of the tariff during the past ten years, Foster asserted there had been an increase in the sugar growers' investment from \$2,250,000 to \$70,000,000, or 3,100 per cent, and an increase in acreage from 41,272 to 370,984 acres, or 800 per cent.⁸¹ Following this statement Benjamin R. Tillman of South Carolina inquired whether the industry would dwindle if the tariff rates were reduced. Foster replied it was his frank opinion that, "if you take the tariff off you might just as well say the industry is gone." After propounding a number of questions to Foster, Tillman stated his willingness to help the sugar industry but not the sugar trust. "I will go the limit," he said, "in helping the Senator to nourish his little baby down there. It is a pretty old baby though. It is 150 years old, or something like that. The sugar-beet industry is only ten to fifteen years old. But I am willing to help both of these

⁷³ *Ibid.*, 3199.

⁷⁴ *Ibid.*, 3205.

⁷⁵ *Ibid.*, 3206.

⁷⁶ *Ibid.*, 3207.

⁷⁷ *Ibid.*

⁷⁸ Tansig, *Tariff History of the United States*, 276-277.

⁷⁹ *Congressional Record*, 61 Cong., 1 Sess., 2369; *Times-Democrat*, May 26, 1909.

⁸⁰ *Congressional Record*, 61 Cong., 1 Sess., 2370.

⁸¹ *Ibid.*, 2372.

babies along and to furnish some milk from the cotton plantation and the corn plantation. . . . But I confess I can not see the justice in making us support Mr. Havermeyer with his automobiles, which are such a terror to my friend [Bailey], the Senator from Texas."⁸²

Foster contended that no other domestic product was treated as unjustly by this tariff bill as the sugar industry. "I look upon this Philippine provision as full of menace and danger to the domestic sugar industry of the United States." For the American farmer, he maintained, could not "compete with the Asiatic labor of the Orient; and with free sugar from Hawaii, the product of Chinese and Japanese labor, free sugar from Porto Rico, concessionary sugar from Cuba, and free sugar from the Philippines."⁸³ He then pleaded with his colleagues not to destroy the "great sugar-refining interests of this country because the sugar trust has been guilty of a long list of wrongs."⁸⁴ In defense of the beet and cane sugar growers, Foster pointed out that we were paying over a hundred million dollars annually for imported sugar. Of this amount Hawaii received \$30,000,000, Porto Rico over \$7,000,000, Cuba in excess of \$60,000,000, and the Philippines approximately \$2,000,000. This expenditure should be made to American producers and this could be done in time if adequate protection was given the domestic sugar growers.⁸⁵ Although frequently interrupted during the course of his speech, Foster was so thoroughly familiar with the history of the sugar industry that Tillman remarked that the Louisiana Senator had given the "best treatment of sugar that he ever had listened to."⁸⁶

Samuel D. McEnery ably seconded Foster's efforts to save the Louisiana sugar industry. He reminded the Senators that the first tariff law of the country demonstrated the existence of a "constitutional obligation to encourage and protect the industries of the country."⁸⁷ Certainly sugar was an American industry and its leaders had the right to expect the government to discharge its obligation. If a low tariff were placed on sugar, he predicted that within twelve months there would not "be a single plow running in the cane fields of Louisiana, there will not be a single beet raised

⁸² *Ibid.*

⁸³ *Ibid.*, 2375.

⁸⁴ *Ibid.*, 2378.

⁸⁵ *Ibid.*, 2379.

⁸⁶ *Daily Picayune*, May 26, 1909.

⁸⁷ *Congressional Record*, 61 Cong., 1 Sess., 2389.

anywhere in the beet-raising States."⁸⁸ Foster's and McEnery's contributions to the debate occasioned many references to May 25 as "Louisiana day in the Senate."

Although defeated in his first efforts to amend the bill, Bristow proposed two other amendments designed to cripple the sugar growers. His move was to have stricken from the bill the words "not above No. 16 Dutch Standard in Color," thereby removing the standard of measure for determining grades of sugar. The Senate did not look with favor on making it possible to import low grades of sugar in the place of high grades, and the motion was defeated by a vote of forty-seven to thirty-six. Bristow's second proposition for reducing the levy on refined sugar from .190¢ to .182½¢ per pound was equally objectionable as it lost by a greater margin, fifty-three to thirty-two votes.⁸⁹

Just prior to the adoption of the sugar schedule in the Senate, Foster made a last effort to eliminate the concession to the Philippine sugar growers. He realized the power of the President and was careful not to antagonize him. In referring to the President's position, he stated: "I know he does not believe that the importation of the amount of sugar and tobacco provided for, free of duty, will in any manner affect injuriously those industries in this country," but "will prove of immense benefit to the people of the Philippines. I wish that I could agree with him, for I have the highest respect for his judgement and the greatest confidence and faith in his wisdom and patriotism."⁹⁰

On the other hand, Foster was sincere and consistent in his position, for he was opposed to allowing any Philippine product to enter the United States duty free that competed with American products. His position was based upon the fact that the American farmer could not compete successfully "with the cheap labor of the Orient." Secondly, he was opposed to the granting of an entering wedge because he felt that such a step would lead to a demand for all Philippine sugar to enter the United States duty free. If this were done, he maintained, it would lead in time to the annexation of the Islands with the resulting loss of all hope of Philippine independence.⁹¹ In concluding his fight to eliminate the concession, Foster predicted "that with the encouragement of free trade this sugar in less than a decade will destroy the immense beet and

⁸⁸ *Ibid.*, 2394.

⁸⁹ *Ibid.*, 2442-2443.

⁹⁰ *Ibid.*, 3326.

⁹¹ *Ibid.*

cane industry of this country."⁹² Further effort to defeat this provision of the bill was futile, for Aldrich had given the word that Taft's wishes were to be complied with. This was shown conclusively when the Senate defeated the Duncan Fletcher amendment, which would have afforded greater protection to sugar, by a vote of forty-three to twenty-six with twenty-two not voting.⁹³ The sugar schedule as prepared by the Finance Committee was finally agreed to without a record vote.

In a large measure Foster's efforts were successful, for on the whole the domestic sugar growers had fared fairly well. Although the Payne-Aldrich bill did admit 300,000 gross tons of Philippine raw sugar duty free,⁹⁴ all attempts to reduce the sugar rates had been defeated and thus the American industry was assured protection.⁹⁵ Foster had been aided in his fight by Nelson W. Aldrich, the Rhode Island Republican party leader in the Senate. The Louisianian had served on the Interstate Commerce Committee with Aldrich and had voted with him on numerous occasions.⁹⁶ Although Aldrich acquiesced in the President's demands, he aided Foster with the Republicans as far as he could. The personal relationship that existed between the two Senators probably was responsible for the defeat of the Bristow amendments, for most of the Democrats and such leading insurgents as LaFollette, Cummins, and Dolliver voted for lower tariff rates on sugar. Foster was naturally pleased with the results of his efforts and highly gratified at the recognition accorded him both from individuals in Louisiana and the press in New Orleans.⁹⁷

The fight to reduce tariff rates on sugar continued and so did the verbal encounters between Foster and Bristow. In 1911, when the Democrats were attempting to reduce the tariff rates, Bristow offered an amendment providing for a reduction of the sugar rates. These two political elements constituted a majority in the Senate and if their lines remained intact they would secure whatever legislation was agreed upon. In the Democratic caucus Foster chided his colleagues for following the insurgents and was able to secure the promise of certain members that they would oppose the amendment.⁹⁸ He then conferred with Boise Penrose,

⁹² *Ibid.*, 3330.

⁹³ *Ibid.*, 3335.

⁹⁴ Frank W. Taussig, *Some Aspects of the Tariff Question* (Cambridge, 1915), 53-54; Roy G. Blakey, *The United States Beet-Sugar Industry and the Tariff*, in *Columbia University Studies in History, Economics, and Public Law*, XLVII (1912), No. 2, pp. 206-207.

⁹⁵ Taussig, *Tariff History of the United States*, 396-397.

⁹⁶ Stephenson, *Nelson W. Aldrich*, 291-296.

⁹⁷ *Daily Picayune*, May 28, 1909.

⁹⁸ *Ibid.*, August 18, 1911.

the leader of the regular Republicans, who agreed to help Foster. The regular Republicans were anxious to chastise the insurgents and Foster showed them how it could be done. The regulars were to refrain from voting, which would give the Foster group the vote necessary to defeat the amendment. The leaders opposed to Bristow engineered the legislative procedure in such a manner that the time for offering amendments came when the Kansan was absent from the chamber. The insurgents walked into the trap and Wesley L. Jones of Washington offered the amendment as a favor to Bristow.⁹⁹ Just at that moment Bristow returned to the Senate and realizing that the insurgents had lost control of the situation denounced the move as a despicable trick. The work was done, for when the vote was taken it stood twenty-four yeas,¹⁰⁰ thirty-three nays, and thirty-two not voting.¹⁰¹ The Democrats and the regular Republicans stood by Foster, the former by voting in the negative and the latter by refraining from voting.¹⁰² The insurgents were severely chastised.

The Republicans were pleased and the sugar interests were jubilant. "Senator Foster of this state, with that rare tact, that diplomatic skill and far reaching intelligence so often displayed by him in recent Louisiana History," commented the *Louisiana Planter and Sugar Manufacturer*, "accomplished a political move . . . of vast importance to this state."¹⁰³ So long as Foster remained in the Senate he was alert to any attack upon the sugar planters and rushed to their defense upon the slightest alarm.

The attitude of the railroads towards the general public and the Interstate Commerce Commission was responsible for the rising wave of resentment against these public carriers. Under the provisions of the act that had established the Commission, that body possessed little regulatory power.¹⁰⁴ There was a growing demand for legislation that would give the Commission power to regulate the railroads and to enforce its rules and regulations without instituting court action to carry out its decrees.¹⁰⁵ The dilatory practices of the railway companies had destroyed practically all of the Commission's authority, and the Fifty-ninth Congress turned its attention to remedying this condition.

⁹⁹ *Ibid.*, *Congressional Record*, 62 Cong., 1 Sess., 4054.

¹⁰⁰ Stephenson, *Nelson W. Aldrich*, 350-351. On tariff legislation certain Democrats voted with the Progressives as well as did some Republican opposition Senators.

¹⁰¹ *Congressional Record*, 62 Cong., 1 Sess., 4057.

¹⁰² *Daily Picayune*, August 18, 1911.

¹⁰³ *New Orleans Louisiana Planter and Sugar Manufacturer*, August 19, 1911.

¹⁰⁴ Balthasar H. Meyer, *Railway Legislation in the United States* (New York, 1909), 287-317.

¹⁰⁵ Emory R. Johnson and Thurman W. Van Metre, *Principles of Railroad Transportation* (New York and London, 1917), 513.

William P. Hepburn of Iowa, Chairman of the House Committee on Interstate and Foreign Commerce, introduced a bill on January 24, 1906, to amend "an act entitled 'An act to regulate commerce' . . . and to enlarge the powers of the Interstate Commission."¹⁰⁶ This measure, because of its principal author, was to be referred to as the Hepburn bill. After receiving a favorable report from the Committee on Interstate and Foreign Commerce, the House, on January 30, sitting as a "Committee of the Whole House on the State of the Union," began debate on the measure.¹⁰⁷ The special rules limiting debate restricted the discussion of the question. Most of the speeches delivered were in support of the measure, and the main criticism of the bill was that it did not go far enough in conferring power upon the Interstate Commerce Commission. Some objected to the bill because they claimed that it proposed to confer legislative power upon the Commission.¹⁰⁸ On February 8, just nine days after the measure was received in the House, it was approved by a vote of 346 to 7.¹⁰⁹

In the Senate, the Hepburn bill was referred to the Interstate Commerce Committee, of which Foster was a member, and was reported favorably. Foster had been deeply interested in railroad legislation and as a member of this committee had made a thorough study of the question. He was familiar with the problem of a state attempting to regulate interstate commerce,¹¹⁰ and as early as 1888, when a member of the Louisiana senate, he had sponsored legislation for the regulations of railroads.¹¹¹ When the Senate began debate on the measure, Foster was among the first to speak in favor of it and he set forth his views on railroad legislation. He touched upon three factors, namely, "the conditions in our industrial life which, from time to time, have demanded such legislation, . . . the power of Congress to pass such legislation, and . . . the wisdom, importance, and the necessity of governmental control of common carriers as provided in this bill."¹¹² In support of the proposed bill, he quoted Theodore Roosevelt to the effect that "In my judgment the most important legislative act now needed, as regards the regulations of Corporations, is this act to confer on the Interstate Commerce Commission the power to revise rates." And as further proof of the

¹⁰⁶ *Congressional Record*, 59 Cong., 1 Sess., 1520.

¹⁰⁷ *Ibid.*, 1763.

¹⁰⁸ Stephenson, *Nelson W. Aldrich*, 289.

¹⁰⁹ *Congressional Record*, 59 Cong., 1 Sess., 2303.

¹¹⁰ Hicks, *The Populist Revolt*, 419.

¹¹¹ *Louisiana Senate Journal*, 1888, p. 30.

¹¹² *Congressional Record*, 59 Cong., 1 Sess., 5376.

need of such legislation he referred to Grover Cleveland's statement that "Public transportation is a universal necessity, and the question of just and reasonable charges therefor has become of vital importance."¹¹³

In his attempt to refute the arguments of unconstitutionality, Foster maintained that Congress possessed the authority to empower the Commission to fix rates. This power, he argued, was conferred on Congress in Section 8 of Article I of the Constitution, which delegated to Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."¹¹⁴ From this premise he reasoned that Congress, in turn, could delegate this authority to its agent, otherwise no effective rate legislation could be established. The field of rate legislation was so broad, he pointed out, that unless such authority was delegated to a duly constituted agent Congress would consume a major portion of its sessions legislating on this one subject.¹¹⁵

Considering the necessity and importance of governmental control of the railroads, Foster stated that we had "reached the epoch in the history of the industrial and economic development of this country, in which the railroads have played and are still playing such a prominent if not dominating part, that such legislation is absolutely necessary."¹¹⁶ Following his three-hour speech, Foster was highly complimented by his colleagues on delivering one of the best discourses that had been made on the subject.¹¹⁷ Joseph Bailey of Texas remarked: "The truth is Senator Foster is a very able man. I have known this for some time. In fact all of us who have had the pleasure of knowing him have known it all along. The country has not known it, but it will learn more of Foster hereafter."¹¹⁸

The Hepburn bill was in charge of Tillman in the Senate. He regarded it "as heralding a general attack on the 'great accumulations of wealth in the hands of the few before which the honest patriot stands appalled'."¹¹⁹ Although there was very little opposition to the enactment of rate legislation in the Senate, there

¹¹³ *Ibid.*, 5377.

¹¹⁴ *Ibid.*, 5379.

¹¹⁵ *Ibid.*, 5380-5381.

¹¹⁶ *Ibid.*, 5384.

¹¹⁷ *Daily Picayune*, April 18, 1906.

¹¹⁸ *Times-Democrat*, April 18, 1906.

¹¹⁹ Norbert Drake, "An Analysis of the Senatorial Speaking of Benjamin R. Tillman" (M.A. Thesis, Louisiana State University, 1940), 96-97.

was considerable disagreement as to the methods to be employed and the extent of governmental regulation of the railroads. Isidor Rayner of Maryland contended that the clause giving the Federal Courts jurisdiction over questions arising from decisions of the Commission destroyed the efficiency of the bill.¹²⁰ James Clarke of Arkansas referred to the bill as displaying "a rare ignorance of the evils to be overcome;"¹²¹ and LaFollette contended that the power to control transportation was "inherent as a right of sovereignty." For this reason the gentleman from Wisconsin asserted that the measure did not go far enough. "This bill," he claimed, "makes no provision authorizing the Commission to ascertain the value of railroad property," nor does it "confer upon the Commission the broad power to revise rates, fares, and charges upon its own notion, or to fix absolute rates, fares, and charges under any circumstances whatever."¹²²

In an attempt to answer the critics of the bill, Knute Nelson of Minnesota admitted that while there were flaws in the proposed bill, it should be remembered that our system of "common law" had been built by piecemeal, and, consequently, it would take time and effort to enact satisfactory rate legislation.¹²³ In a rejoinder Stephen Elkins disclaimed any imputation that he favored "the railroad side" of the question, but he did object to the bill for not attempting "to provide remedies for many existing abuses by the railroads."¹²⁴ Alexander Clay of Georgia contended that Congress had the power to "control interstate freight rates," and it was, therefore, the duty of that body to fix standard rates that would be "just and reasonable."¹²⁵

Joseph Foraker of Ohio, one of the three Senators who voted against the measure, objected "to the government going into the rate making business at all, and particularly in the manner in which it is provided it shall go in this measure."¹²⁶ Chester Long of Kansas took issue with the contention that Congress did not have rate-making power. "If a state, under its sovereign power to control commerce within its limits has the power to fix rates directly by the legislature or through the medium of a commis-

¹²⁰ *Congressional Record*, 59 Cong., 1 Sess., 7076; Isidor Rayner, "The Railroad Rate Debate in the Senate," in *The Independent*, LX (1906), 1408-1411.

¹²¹ *Congressional Record*, 59 Cong., 1 Sess., 6104-6105.

¹²² *Ibid.*, 5696.

¹²³ *Ibid.*, 6301.

¹²⁴ *Ibid.*, 4832.

¹²⁵ *Ibid.*, 4445.

¹²⁶ *Ibid.*, 7081; Foraker, *Notes of a Busy Life*, II, 213-227; Mark Sullivan, *Our Times: The United States, 1900-1925*, 6 vols. (New York, 1926-1935), II, 469-470.

sion, then I believe," he continued, "that Congress has the same power in its regulation of interstate commerce to fix rates directly or with the assistance of a commission."¹²⁷ Francis Newlands of Nevada was not satisfied with the measure, as it was "incomplete and fragmentary in character." The bill, he felt, should provide for a "valuation of the railroads and it should have prescribed the return which common carriers should receive upon such valuation."¹²⁸

President Roosevelt strongly favored the bill and was particularly interested in limiting "the appellate jurisdiction of the courts over orders of the Interstate Commerce Commission."¹²⁹ He also favored giving the Commission "power to initiate and change a rate."¹³⁰ As a consequence of the public interest in the measure it was not difficult for Roosevelt's lieutenants in the Senate to secure its passage by an almost unanimous vote. The administration leaders, however, made no attempt to restrict the debate and it was not until after some fifty-eight speeches had been delivered on the question that it was approved by a vote of seventy-one to three.¹³¹ The bill was then referred to a joint committee of the House and Senate to iron out the differences. This was done and on June 28 the conference report was accepted by the Senate.¹³² The Interstate Commerce Commission was given the power to prescribe maximum rates, to require common carriers to file annual reports with the Commission, and to prescribe a uniform system of accounting.¹³³

In 1906, when the House Postal Appropriation bill was being considered by the Senate, Foster led the fight to protect the South from unjust discrimination. At the suggestion of Furnifold Simmons of North Carolina the bill was amended in the Committee so as to give the Postmaster General discretionary power in allocating funds for fast mail delivery to the South. Many of the southern Senators believed that G. B. Cortelyou would refuse to allocate any of the funds provided in the appropriation bill to this service; and, for that reason, they were opposed to the speci-

¹²⁷ *Congressional Record*, 59 Cong., 1 Sess., 4636.

¹²⁸ *Ibid.*, 7086.

¹²⁹ Henry S. Haines, *Problems in Railway Regulation* (New York, 1911), 118.

¹³⁰ Bowers, *Beveridge and the Progressive Era*, 225-226.

¹³¹ *Congressional Record*, 59 Cong., 1 Sess., 7088; *Daily Picayune*, May 19, 1906; *Times-Democrat*, May 19, 1906; James Ford Rhodes, *The McKinley and Roosevelt Administration, 1897-1909* (New York, 1928), 324-325.

¹³² *Congressional Record*, 59 Cong., 1 Sess., 9655; W. P. Garrison, "Passage of the Rate Bill," in *The Nation* (New York, 1865—), LXXXII (1906), 420.

¹³³ 34 *United States Statutes at Large*, Ch. 3591; I. L. Sharfman, *The Interstate Commerce Commission* (New York, 1931), 41-44; Walter M. W. Splawn, *Government Ownership and Operation of Railroads* (New York, 1928), 362.

fic proposal.¹³⁴ Immediately after the Committee reported the bill to the Senate, Stephen Mallory of Florida offered an amendment to the effect that "the Postmaster General shall not be authorized to use the money hereby appropriated, or any part thereof, unless it be necessary in order to provide the same or as good a service as is now provided."¹³⁵

Foster was alert to the situation and immediately solicited the aid of Boise Penrose of Pennsylvania, for he knew that Republican support was necessary if the Simmons provision was to be defeated. Foster's personal relations with Penrose, the Chairman of the Post Office Committee, proved to be valuable. According to their conversation, the Louisianian is reported to have said: "Look here, Penrose, this amendment of Simmons knocks us out. Help us kill it." To which the Pennsylvanian is credited with replying: "I don't care anything about it, but get over on your own side and head it off there."¹³⁶ Although the conversation was off the record, it indicated the friendly Republican support which Foster was able to muster in a cause he espoused. After receiving the promise of Republican support, he contacted the Democrats and finally was certain of eliminating the objectionable Simmons provision. Then he addressed the Senate and explained how the bill, as reported by the Committee, would injure the South. The fast mail service then enjoyed by the cities of the South gave New Orleans and Louisiana mail six or eight hours earlier than they could have received it by regular train. "The discontinuance of this service would practically break up all the business arrangements now in the cities benefited by it, because, as has been said, time is not only an important factor, but it is almost the essence of a contract."¹³⁷ In addition to Mallory, the Mississippian, H. D. Money, aided Foster materially in his fight to secure the adoption of the Mallory amendment which automatically displaced the Simmons amendment and thereby retained the fast mail service for New Orleans and Louisiana.¹³⁸

From 1718, when Jean Baptiste Bienville established the little settlement on the Mississippi which he called Nouvelle Or-

¹³⁴ *Daily Picayune*, May 19, 1906.

¹³⁵ *Congressional Record*, 59 Cong., 1 Sess., 7507.

¹³⁶ *Times-Democrat*, May 30, 1906.

¹³⁷ *Congressional Record*, 59 Cong., 1 Sess., 7602.

¹³⁸ *Ibid.*, 7603; *Times-Democrat*, May 30, 1906. The amendment was adopted without objection.

leans,¹³⁹ the settlers of the lower Mississippi Valley have been menaced by recurring floods. Foster's interest in flood control legislation was natural and it was due to this particular problem that he sought membership on the Commerce Committee, to which all bills pertaining to flood control were assigned.¹⁴⁰ His position on this committee made it possible for him to guard the welfare of his constituents. He introduced bills for specific projects designed to protect the river banks.¹⁴¹ He recognized the necessity for viewing the problem in its larger aspect and fought for bills that carried appropriations for work beyond the confines of Louisiana. Many of the amendments which Foster proposed died in committee, but he never gave up and continued to urge the adoption of flood control measures. When the Rivers and Harbors Appropriation bill was up for consideration in 1902,¹⁴² Foster offered several amendments, among which were proposals to increase the amount stipulated for improving the section of the Mississippi between the mouths of the Ohio and the Missouri from \$600,000 to \$650,000¹⁴³ and to include an appropriation of \$110,000 to continue the improvements in the harbor of New Orleans. These amendments were referred to the Commerce Committee, but it failed to report them.¹⁴⁴

During the consideration of the Rivers and Harbors Appropriation bill of 1910 by the Commerce Committee, Foster offered several amendments designed to provide a permanent solution of the problem.¹⁴⁵ His colleagues recognized Foster's intelligent approach to the problem and after much discussion included \$530,000 for improvement of the Atchafalaya River region.¹⁴⁶ As his request for an appropriation to improve the waterways between Jefferson, Texas, and Shreveport,¹⁴⁷ Louisiana, was too palpably a "pork barrel" project,¹⁴⁸ the committee refused to incorporate it in the bill. However, during the debate on the Senate floor, he secured an amendment which provided for the erection of a dam at the mouth of Caddo Lake.¹⁴⁹ In this manner

¹³⁹ Delvaille H. Théard, "The Founding of New Orleans," in *Louisiana Historical Quarterly*, III (1920), 68-70.

¹⁴⁰ *Daily Picayune*, June 3, 1904.

¹⁴¹ *Congressional Record*, 60 Cong., 1 Sess., 2959.

¹⁴² *Ibid.*, 57 Cong., 1 Sess., 2578; 32 *United States Statutes at Large*, Ch. 1079. The total amount appropriated by the bill was approximately \$26,000,000.

¹⁴³ *Congressional Record*, 57 Cong., 1 Sess., 3185.

¹⁴⁴ *Ibid.*, 4465-4474.

¹⁴⁵ *Ibid.*, 61 Cong., 2 Sess., 1998; 36 *United States Statutes at Large*, Ch. 382. The total amount appropriated by the bill was approximately \$40,000,000.

¹⁴⁶ *Daily Picayune*, February 18, 1910.

¹⁴⁷ *Congressional Record*, 61 Cong., 2 Sess., 2203.

¹⁴⁸ Pringle, *Life and Times of William Howard Taft*, I, 528.

¹⁴⁹ *Daily Picayune*, April 19, 1910.

he satisfied the people of North Louisiana and at the same time received the merited commendation of the New Orleans press for the results he obtained for South Louisiana.¹⁵⁰ Although Foster resigned from the Commerce Committee to accept an appointment to the Interstate Commerce Committee, he continued to take an active interest in flood control.

In 1912 the flood waters of the Mississippi not only endangered the agricultural areas of Louisiana, but also menaced the city of New Orleans as well as the villages and towns of the lower valley. National attention, as never before, was directed to the imminent danger to the lives and property of the people of this section. On account of the impending catastrophe, the American public was aroused to the necessity of considering the protection of the people of the Lower Mississippi Valley a national, rather than a local, problem. In the House of Representatives Joseph E. Ransdell, member of the Committee on Rivers and Harbors, had been instrumental in having incorporated in the House bill for the relief of the sufferers an appropriation of \$350,000 for levee construction. When this bill reached the floor of the Senate, Foster requested unanimous consent to consider the matter.¹⁵¹ Reed Smoot of Utah and Francis Warren of Wyoming countered with the recommendation that the bill take the usual procedure and be referred to the committee.¹⁵² Foster urged vigorously for immediate consideration and pointed out that even a few hours delay might prove to be disastrous, for if there should occur a break in the levees large areas would be inundated, thereby destroying thousands of dollars worth of property and the probable loss of innumerable lives.¹⁵³ His impassioned plea bore results, for the two Senators withdrew their objections, thereby paving the way for speedy enactment of the bill into law. Such action by the Senate caused Smoot to remark that never before in his ten years in the upper chamber had he witnessed such unusual procedure. As long as Foster remained in the Senate, he was active in his fight to combat the flood menace and gave much study to the question of finding a solution to the problem.

Although Foster was particularly interested in the protection of the sugar interests and finding a solution to the flood problem,

¹⁵⁰ *Ibid.*, April 9, 1910.

¹⁵¹ *Congressional Record*, 62 Cong., 2 Sess., 4183.

¹⁵² *Times-Democrat*, April 3, 1912.

¹⁵³ *Daily Picayune*, April 3, 1912.

both of which were of prime importance to South Louisiana, he did not ignore the problems confronting his constituents in North Louisiana. Cotton was the staple crop of the region from Alexandria north to the Arkansas line. This source of revenue was endangered by the boll weevil that threatened to ruin the cotton crops here as elsewhere in the cotton growing areas of the South. The Department of Agriculture, through the experimental stations, was attempting to eradicate or at least control the pest. Congress was asked to make an appropriation for this work and the House made available \$155,000 for the campaign to eradicate the boll weevil.¹⁵⁴ When the bill reached the Senate and was referred to the Committee on Agriculture and Forestry, Foster appeared before that body and urged that the appropriation be increased to \$300,000.¹⁵⁵ He pointed out the necessity of eradicating the boll weevil; otherwise, he stated, thousands of cotton growers would be ruined and poverty and want would follow. Although Foster failed to secure favorable action on the full amount of his request,¹⁵⁶ the committee raised the House appropriation to \$250,000.¹⁵⁷

With the establishment of the Standard Oil refinery at Baton Rouge in 1909, the export trade of that city experienced an unprecedented increase. A large part of the cargoes were shipped directly to foreign ports and it was a great inconvenience and expense to stop the ships in New Orleans for entrance and clearance. Foster cooperated with Representative Robert C. Wickliffe of the sixth Louisiana district, in which Baton Rouge is situated, in having the capital city made a sub-port of New Orleans.¹⁵⁸ When the Wickliffe bill reached the Senate, Foster requested unanimous consent for its immediate consideration.¹⁵⁹ The acquiescence indicated that the bill would encounter no opposition, and thereby Baton Rouge was made a sub-port.

Foster was friendly to labor and supported the Employer's Liability Act.¹⁶⁰ He threw his support behind the passage of the Beveridge Child Labor Bill, and always supported measures designed to strengthen the Navy.¹⁶¹ "Sometimes in our country's

¹⁵⁴ *Times-Democrat*, March 31, 1910.

¹⁵⁵ *Congressional Record*, 61 Cong., 2 Sess., 1902.

¹⁵⁶ *Times-Democrat*, February 24, 1910.

¹⁵⁷ *Ibid.*, March 31, 1910.

¹⁵⁸ *Congressional Record*, 61 Cong., 2 Sess., 1823; *Daily Picayune*, April 16, 1910.

¹⁵⁹ *Congressional Record*, 61 Cong., 2 Sess., 5180; *Daily Picayune*, April 23, 1910.

¹⁶⁰ Paul L. Haworth, *The United States in Our Own Times, 1865-1924* (New York, 1925), 330.

¹⁶¹ Dwight L. Dumond, *Roosevelt to Roosevelt: The United States in the Twentieth Century* (New York, 1937), 65.

history war must come," prophesied Foster, and he therefore believed that the government was in duty bound to maintain an Army and Navy on a much larger scale.¹⁶² During his incumbency he voted in favor of such important legislation as the Elkins Act, the Pure Food and Drugs Act, the Meat Inspection Act, the Aldrich-Vreeland Act, the Newlands Act, and the Postal Savings Bank Act.

While Foster was not a finished debater and seldom spoke on the various issues before the Senate, he made a definite effort to inform himself on proposed legislation. It was in line with this policy that he accompanied Secretary Taft on a trip to Japan and the Philippines in 1905.¹⁶³ This trip was fruitful because he not only gained a clear picture of existing conditions in the Islands and could vote more intelligently on legislation pertinent to them, but he also established cordial relations with the Secretary that later helped the Louisianian, with one exception, in his fights to protect the sugar planters.

In 1910, when Chief Justice Melville Fuller of the United States Supreme Court died, Foster's friendship with Taft made it possible for him to urge the President to promote Justice Edward Douglas White to this vacancy.¹⁶⁴ In September he made a special visit to Taft's home in Beverly, Ohio, to press upon him the qualifications of the Associate Justice.¹⁶⁵ After convincing the President of the propriety of nominating the Louisianian for the position, Foster secured the promise of a number of Republican Senators to support the candidacy of White, among whom were William E. Borah of Idaho, John Kean of New Jersey, Winthrop M. Crane of Massachusetts, Eugene Hale of Maine and Jacob J. Gallinger of New Hampshire. According to Foster's colleague's in the Senate, he was in a large measure responsible for White's appointment.¹⁶⁶

As a Senator, it is true that Foster did not win the fame and renown of many of his more distinguished colleagues; yet, as far as the interests of the State of Louisiana were concerned, his services to his native state cannot be passed over lightly. While not a national figure, his consistent and indefatigable efforts in behalf of the sugar industry, his work in regard to

¹⁶² *Murphy J. Foster Speech*, October 3, 1911.

¹⁶³ Herbert S. Duffy, *William Howard Taft* (New York, 1930), 173.

¹⁶⁴ *States*, June 13, 1921.

¹⁶⁵ Ramke, "Edward Douglas White, Statesman and Jurist," 264.

¹⁶⁶ *Ibid.*, 270-271.

the regulation of the railroads, and his endeavor to procure good control legislation constitute accomplishments that make his senatorial career worthy of commendation and rank him high as a public servant.

CHAPTER X

RETIRED TO PRIVATE LIFE

The 1912 political campaign in Louisiana was unusually significant. Not only were the state officials and members of the House of Representatives to be chosen, but recommendations were to be made to the General Assembly concerning the election of the two United States Senators, for the terms of the two incumbents were due to end in 1913 and 1915, respectively. The preferential vote for both Senators was necessary at this time, as no other general election was scheduled prior to 1916. The contest for the Senatorial term ending in 1915 had opened in 1910, following the death of Samuel D. McEnery.¹ J. Y. Sanders was governor at the time, and he had been elected for the unexpired term.² It was politically inadvisable for him to relinquish the governor's chair at the time, so Sanders declined to accept the Washington post and planned to be a candidate in 1912 for the full term.³ Sanders threw his support to John R. Thornton of Alexandria, with the understanding that the latter would not be a candidate to succeed himself. Thornton and the regular Democratic organization promised in return to support Governor Sanders for the United States Senate in 1912.

The New Orleans regular Democratic organization known as the Old Regulars or the Choctaws had dominated state politics for some time. They were accused of protecting horse racing with all its attendant evils in the Crescent City. Lieutenant-Governor Paul M. Lambremont had broken with the Choctaws and was resentful that Sanders had not vacated the governor's chair. The old cry of city control was raised and this helped to consolidate the opposition. As a result of this sentiment, the Good Government League was organized and Judge Luther E. Hall of Monroe was chosen as its candidate for governor. The Old Regulars who had supported Sanders threw their support to Secretary of State John T. Michel, of New Orleans. James B. Aswell, President of the Louisiana State Normal at Natchitoches, ran as

¹ Reynolds, *Machine Politics in New Orleans*, 180.

² *Louisiana House Journal*, 1910, p. 977.

³ Reynolds, *Machine Politics in New Orleans*, 178-180.

an independent.⁴ The Old Regulars, in fulfillment of their pledge to Sanders when he remained in the governor's office, declared for him for the Senatorial term beginning in 1915; but they refused to endorse any candidate for the term beginning in 1913, although the organization was known to be partial to Foster. The Good Government League centered its efforts on the governor's race and refused to endorse candidates for the Senate positions.⁵

Although the Choctaw support of Sanders was important, that very support presented elements of weakness as the resentment in the state against the organization was increasing in force. It was not surprising, therefore, that Sanders should encounter the strong opposition of Representatives Robert F. Broussard of New Iberia and Arsene P. Pujo of Lake Charles.⁶ It was rumored that Foster and Sanders had made a political combination and that Representative Joseph E. Ransdell of Lake Providence would run on their ticket for governor.⁷

Ransdell was politically ambitious and felt that his fourteen years of service in the House warranted his promotion. He was undecided at first as to whether he would be a candidate for governor or aspire to a Senatorship. On May 6, 1911, the *Picayune* stated that Ransdell would run for the State executive position;⁸ but just four days later Ransdell ended all speculation by announcing through the press that he would "not be a candidate for governor, but for the United States Senate."⁹ When this announcement was made he was undecided for which of the two terms he would be a candidate. The following day, before returning to Washington, he clarified his position by announcing that he would be "a candidate before the people at the next Democratic primary election for the term in the United States Senate beginning March 4, 1913. As soon as my duties at Washington permit, I expect to make a thorough campaign of the state and visit every section."¹⁰ He had decided to oppose Foster, as he believed him to be the weaker of the Senatorial candidates, and the governor's contest was more hazardous with two such strong men as Hall and Michel in the race.¹¹ The decision led the *Pica-*

⁴ *States*, June 13, 1921.

⁵ *Daily Picayune*, June 1, 1911.

⁶ *States*, June 13, 1921.

⁷ *Daily Picayune*, May 13, 1911.

⁸ *Ibid.*, May 6, 1911.

⁹ *Ibid.*, May 10, 1911.

¹⁰ *Ibid.*, May 11, 1911.

¹¹ Joseph E. Ransdell to the writer, July 12, 1941.

yune to remark that "this endeth one of the famous incidents in Louisiana politics—the struggle of Congressman Ransdell with himself and his friends."¹²

Foster opened his campaign as early as May 3, 1911. His headquarters were located in New Orleans and W. C. Chevis was his campaign manager.¹³ As it was nine months before the election, Foster returned to Washington but kept in close touch with the situation in Louisiana. He maintained that his stay in the capital was due to his interest in the welfare of the state, and Chevis stated that "when the Congress shall adjourn Senator Foster will return to the state and enter actively into the campaign. Meanwhile Senator Foster is attending to his public duties at Washington and giving his opponents a clear field in the state campaign."¹⁴

As all the Senatorial candidates were members of Congress, except Sanders, they divided their time between Washington and Louisiana because of the special session. This caused the interest in the Senatorial race to lag. There were no clear-cut issues and the candidates conducted a personal campaign with slight references to national problems.¹⁵

Congress at the time was discussing various tariff rates, and Foster devoted most of his energies to protecting the interests of the state. Bristow of Kansas offered one of his numerous amendments to bills calling for a downward revision of the tariff on sugar.¹⁶ Naturally the sugar interests of Louisiana were opposed to the amendment and looked to Foster to protect them. He did not disappoint them and when the press favorable to him declared that Foster was responsible for the defeat of the amendment Ransdell became somewhat concerned. When the *Picayune* stated that in "the closing hours of the tariff fight when the sugar schedule seemed almost certain to be revised, Senator Foster by the exercise of rare legislative strategy, snatched victory from defeat in the Senate body. To make the victory more decisive and complete, he had the satisfaction of seeing Senator Bristow in a rage vote against his own amendment, which had hung like a bogey over the sugar industry since the beginning of the session,"¹⁷ Ransdell was forced into action. The Repre-

¹² *Daily Picayune*, May 11, 1911.

¹³ *Ibid.*, May 3, 1911.

¹⁴ *Ibid.*, July 24, 1911.

¹⁵ *Times-Democrat*, August 10, 1911.

¹⁶ *Daily Picayune*, August 18, 1911.

¹⁷ *Ibid.*

sentative issued a statement from Washington pointing out that Foster had little to do with the rejection of the Bristow amendment; in fact, he stated, Foster had done no more than vote against it, and, as proof of his assertion, he challenged Foster to point to one statement in the *Congressional Record* that would indicate any activity on the part of the Louisiana Senator.¹⁸ That record, he declared, would reveal that credit for the defeat of the amendment was due to Senator Clarke of Arkansas.¹⁹

The *Picayune* immediately came to the defense of Foster and attempted to discredit Ransdell's derogatory remarks; its readers were informed that the Senator had received letters from various organizations and individuals congratulating him on the results of his fight to save the Louisiana sugar growers. The officials of the New Orleans Sugar Exchange, Vice-President Charles Janvier of the Canal and Louisiana Bank, and Lynn H. Dinkins, President of the Interstate Trust and Banking Company, were loud in their praise and fulsome in their expressions of appreciation of Foster's activities.²⁰ Letters from James Davidson Hill, President of the Louisiana Sugar Planters Association, and Henry Oxnard of the American Beet Sugar Manufacturers were given full publicity.²¹ But the results of the election did not hinge upon Foster's activity or lack of activity in the tariff fight; local questions and sectional issues were more important.

Ransdell opened his campaign with a rally in his home town of Lake Providence. During his speech he compared his own record in the House with that of Foster in the Senate on the important question of flood control. After propounding the rhetorical question, "What has Senator Foster done in Congress for levees or waterways?" Ransdell proceeded to answer it by asserting that "eight years ago he [Foster] was appointed to the Commerce Committee, and after four years of inactivity thereon he abandoned it, thereby relinquishing a position of the greatest importance to his state and losing a chance to be of inestimable benefit to its levees and waterways."²² He then attacked Foster for continuing a lucrative law practice after his election to the Senate. He had relinquished his law practice, he stated, when he was elected to the House in order to devote all his time

¹⁸ *Ibid.*, August 21, 1911.

¹⁹ *Times-Democrat*, August 21, 1911.

²⁰ *Daily Picayune*, August 20, 1911.

²¹ *Times-Democrat*, September 16, 1911.

²² *Daily Picayune*, August 31, 1911.

and energies to the service of his constituents. Foster's policy, he continued, was particularly bad, as certain of his clients represented corporate interests, which made it impossible for Foster to serve the people of the state to the best advantage. As proof of the assertion, he pointed to the fact that the firm of Foster, Milling, Godchaux, and Sanders had been retained as legal counsel by the Sugar Trust, the Illinois Central Railroad, the New Orleans Railway Company, and the Louisiana Railway and Navigation Company.²³ In Monroe, Ransdell reiterated these charges and injected the sectional plea by claiming that "North Louisiana is entitled to one of the members, and the question of geography should be considered. . . . In the present race Sanders, Broussard, and Pujo are from the extreme South Louisiana. One of these is bound to be elected to succeed Thornton. If Foster, of St. Mary, is elected, South Louisiana will get both senatorships." The appeal for consideration of a North Louisianian for one of the positions was favorably received. Ransdell, sensing the effect of the sectional issue, stressed the point throughout the campaign.²⁴

Foster opened his campaign with a political rally in the Athenaeum in New Orleans on October 3. He spoke for two hours and forty-five minutes and delivered one of the most remarkable addresses of his career. In it he reviewed his services as a public servant and gave an accounting of his thirty-one years in public office.²⁵ Foster recited his accomplishments and based his claim for continuance in office on the record he had written. He deplored Ransdell's injection of the sectional issue into the campaign on the ground that as Senator he had represented the entire state and that service, not geographical location, should determine the fitness of a candidate for office. He declared: "If I cannot be elected Senator to represent the whole state, I frankly say to the people of Louisiana that I do not wish the selection. I have never once thought to represent one section against the other. I have never thought of doing one single act that would injure one section for the benefit of the other."²⁶ Later, he accused Ransdell of being two-faced, for the North Louisianian had praised him and his administration unstintingly. As evidence of this fact, it was recalled that in 1900 his opponent had stated in a speech de-

²³ *Times-Democrat*, September 16, 1911.

²⁴ *Daily Picayune*, January 6, 1912.

²⁵ *Times-Democrat*, October 4, 1911.

²⁶ *Murphy J. Foster Speech*, October 3, 1911.

livered at Farmerville: "I am no apologist for Governor Foster; he needs none. His official history for the past eight years is the history of Louisiana, and a history of which every son of our State has every reason to be proud."²⁷ As for as Ransdell's fitness was concerned, Foster asserted that his opponent was a failure. As a congressman he had drawn only one important committee assignment and had delivered only one speech on a controversial issue. He was certain that if it took Ransdell "as long to acquire any recognition in the Senate as it did in the House he would have to live as long as Methusalah."²⁸

Ransdell explained his Farmerville statement by pointing out that he was praising Foster the governor, and not Foster the Senator,²⁹ as his record for the past twelve years would prove. At any rate, he maintained that North Louisiana was due one of the two senatorships.

The *Times-Democrat* emphasized the justice of having one Senator from North Louisiana and pointed out that from time immemorial it had been the custom to allot one of the senatorships to North Louisiana, and this custom could be perpetuated only by the election of Ransdell.³⁰ The *Picayune* attempted to ignore the sectional issue by pointing out the benefits that would accrue to the state by returning Foster. Questions of vital interest to the state were impending and Foster was best equipped to protect local interests. He was a member of important committees and, continued the *Picayune*, was the ranking Democrat on the important Appropriations Committee and the Interstate Commerce Committee and chairman of the Committee on the Transportation and Sale of Meats.³¹ He was well liked by his colleagues and could exert greater influence in the Senate than could Ransdell; therefore it was imperative that Foster be reelected.

In the gubernatorial race Aswell was accused of securing the adoption of a speller, of which he was joint author, for use in the schools of the state while he was superintendent of education. In addition, he was charged with irregularities in his accounts while in that office and that he was not satisfied to continue as president of the Louisiana State Normal, for he was an applicant for the

²⁷ *Times-Democrat*, January 23, 1912.

²⁸ *Twice-a-Week Picayune*, January 18, 1912.

²⁹ *Daily Picayune*, January 14, 1912.

³⁰ *Times-Democrat*, January 14, 1912.

³¹ *Daily Picayune*, January 13, 1912.

position of superintendent of the New Orleans public schools. Although Aswell promptly denied these charges,³² they were reiterated and other damaging charges were made against him. Judge Hall made the domination of the state by the Sanders state machine and the New Orleans city ring the principal issue of the campaign.³³ He heaped condemnation upon Michel as the candidate and the representative of all the evils attributed to the machine, yet throughout the campaign Hall refused to attack Aswell. Michel answered these accusations by declaring that Hall was a machine candidate, as every position that he ever held was given to him by the "ring of Ouachita Parish."³⁴

As the time for the election approached, all the candidates claimed victory. The Aswell supporters said, "The fight is won."³⁵ The Good Government League predicted that Hall would "get a clear majority over both his opponents in the country and also in the city."³⁶ Michel's headquarters expressed the view that he would "beat Judge Hall and Professor Aswell combined over two to one in the city of New Orleans, and his majority in the city will not be less than 12,000 and may run up to 15,000."³⁷ The election returns showed that while Hall lacked 15,544 votes of receiving a majority, his plurality over Michel was 7,411.³⁸ Shortly after the results of the election became known Aswell announced his support of Hall in the second primary.³⁹ Michel realized the almost insurmountable difficulty of defeating Hall in a runoff, and he therefore withdrew from the race, leaving Hall as the Democratic nominee.

The outcome of the senatorial contest was in doubt even in the last days of the canvass; but the headquarters of each candidate issued statements confidently predicting victory. These sweeping claims appeared valid, as each candidate had a large popular following and non-partisan observers felt that either candidate might be returned the winner. The result was undecided until several days after the election, when the official count gave Ransdell a majority of 5,370 out of the total of 110,500 votes cast.⁴⁰

³² Monnie T. Cheves, "The Educational and Political Career of James Benjamin Aswell" (M. A. Thesis, Louisiana State University, 1937), 57-60.

³³ *Times-Democrat*, January 6, 1912.

³⁴ *Daily Picayune*, January 4, 1912.

³⁵ *Times-Democrat*, January 23, 1912.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*, January 26, 1912. The vote for governor was: Hall, 53,163; Michel, 45,752; Aswell, 22,955.

³⁹ *Ibid.*, January 27, 1912.

⁴⁰ Edward Everett, (comp.), *Compilation of Primary Election Returns of the Democratic Party, State of Louisiana* (Baton Rouge, 1912). The election returns gave Ransdell 57,935 votes to 52,565 for Foster.

One of the important factors that contributed to Foster's defeat was the small majority which he received in New Orleans. Even though the city machine was favorable to him, Foster led Ransdell in the city by only 3,059 votes, while John T. Michel, the machine candidate for governor, led his nearest opponent by 10,427 votes. Had the Regulars delivered the same vote to Foster that they did to Michel he would have been re-elected, but the rank and file of the Choctaws believed he was too close to Sanders and would not support him any more than they did the Governor in his race for the Senate. Although the Choctaw leaders had remained in line for Sanders, the rank and file of the faction refused to vote as directed because Sanders had opposed organized betting on horse racing. The business interests that had profited by the influx of race track followers gave forceful protest against the man they held responsible for their financial losses.

An analysis of the vote cast in the state reveals the influence of sectionalism in the campaign.⁴¹ Of the sixty-one parishes Foster carried only twenty, and eighteen of these were in South Louisiana, mainly in the Sugar growing areas.⁴² Foster carried only two parishes in North Louisiana and Ransdell carried the remainder in this section in addition to a few in the southern portion of the state.⁴³ The custom of selecting one Senator from North Louisiana and one from South Louisiana was thus perpetuated.

CHAPTER XI

JOURNEY'S END

The high regard that the leaders of all political factions had for Foster personally was revealed in a tangible manner after his defeat in 1912. Both Senators elect, Broussard and Ransdell, and the entire Louisiana delegation in the House recommended the appointment of Foster to the post of Collector of Customs at New Orleans at the expiration of his term of office on March 3, 1913. President Woodrow Wilson moved very slowly in removing Republican incumbents from Federal office and it was not until July, 1914, that Wilson transmitted his nomination to the Senate.¹ Immediately upon receipt of the nomination on July 9, 1914, the

⁴¹ In Appendix C, below, will be found a tabulation of the vote by parishes.

⁴² The eighteen parishes were Plaquemines, St. Bernard, Jefferson, St. Charles, Orleans, St. John The Baptist, St. James, Terrebonne, Acadia, St. Landry, Ascension, Iberville, St. Mary, St. Martin, Lafourche, St. Helena, Pointe Coupée, and West Feliciana.

⁴³ The two North Louisiana parishes were Sabine and Red River.

¹ *Times-Picayune*, July 10, 1914.

Senate unanimously confirmed Foster's appointment, and on August 1 he became Collector of Customs at New Orleans.²

Foster served as Collector during the remainder of the Wilson regime and until his death in the first part of the Harding administration when the Republicans returned to power. The work was congenial and Foster discharged the duties of the office in a thoroughly satisfactory manner. He accepted his retirement from the Senate philosophically and refused to become embittered. He had given his State and his party efficient service and had no regrets for his actions. During his occupancy of the Customs office he refrained from active participation in politics and devoted his time and energy to his job. Foster returned to Franklin in 1913, and for the remainder of his life he divided his time between his native town and his duties in New Orleans. Following a long and fruitful life of seventy-two years, Foster passed away at his home near Franklin on June 12, 1921.

Foster was actively connected with the history of the state for approximately fifty years, and no one questioned his love of Louisiana. Not only did he name his daughter who was born in the Executive Mansion in Baton Rouge, Louisiana Foster, but he gave more definite expression of that love by his constant effort to improve the economic and political conditions in the state. Although Foster failed to attain national renown, he did render invaluable service to the people of Louisiana. From the fight to overthrow carpetbag government and restore white supremacy in Louisiana until he relinquished the position of Collector of Customs, Foster directed his efforts to the service of his constituents and to maintaining peace and harmony in the ranks of the Democratic party.

The greatest contribution that Foster rendered Louisiana was probably his successful fight against the Lottery company. This Company had gained almost complete control of the state government with the resultant practical disfranchisement of the electorate. Naturally, the bitter fight left deep scars, but Foster's conciliatory attitude as governor made it possible for the breach to be healed and the way prepared for the calling of a constitutional convention to disfranchise a majority of the Negroes and insure the return of white supremacy.

² *Congressional Record*, 63 Cong., 2 Sess., 11898-11899.

Although Foster's service in the Senate failed to gain for him the national recognition comparable to that of his more distinguished colleagues, he served the interests of his state in a highly satisfactory manner. His personal contacts with members of both political parties and his work in committees rather than his frequent participation in the Senate debates made it possible for Foster to protect the sugar growers of the United States from destructive foreign competition. In fact, during the twelve years he was in the Senate, the sugar industry enjoyed an era of comparative prosperity.

Foster's activities in regard to flood control were probably of greater value to the state and the Lower Mississippi River Valley than his efforts to aid the sugar planters. His fight to secure appropriations for flood control and his support of the Hepburn, Adamson, Aldrich-Vreeland, Newlands, Parcel Post and Postal Savings Bank bills were more national in scope and revealed Foster's ability to consider questions that were not of a local nature.

The "Gentleman from St. Mary" never acquired wealth, and upon his retirement from the Senate it was imperative that he continue to work until his death. The affluence of a sugar planter, the devious means of acquiring wealth during the Lottery regime, and the opportunities for accumulating fortunes that certain of his confreres in the Senate grasped³ in no way tempted Foster. His political enemies could and did attack his policies, but they never challenged his veracity or questioned his honesty. Foster gave the best he possessed to the state he loved so well and his reward was a personal knowledge that he had given conscientious service to the citizens of Louisiana.

Recognition of Foster's many and varied accomplishments was expressed by the *Times-Picayune* following his death when it stated, "there passed . . . a man who played a most important part in Louisiana history since the Civil War, who accomplished more changes in the life and legislation of the State, who led more causes to victory than any other Louisianian in the last three decades."⁴ In consideration of his many accomplishments and the great benefits he secured for his native state, it was indeed fitting that the inscription upon his tomb should read, "His presence is God's, his past is our own."

³ David Graham Phillips, "The Treason of the Senate," in *Cosmopolitan Magazine* (New York, 1886—), XLI (1906), 3-12.

⁴ *Times-Picayune*, June 14, 1921.

APPENDIX A

THE OFFICIAL RETURNS OF THE GENERAL ELECTION OF 1892*

<i>Parishes</i>	<i>M. J. Foster</i>	<i>S. D. McEnery</i>	<i>A. H. Leonard</i>	<i>J. E. Breaux</i>	<i>R. H. Tannehill</i>
Acadia	1670	224	111	78	223
Ascension	2623	653	1128	80	7
Assumption	989	927	1721	.....	.....
Avoyelles	2209	913	944	182	191
Bienville	1121	322	2	3	533
Bossier	3704	217	96	102	9
Caddo	2469	658	234	25	92
Calcasieu	1456	1051	489	337	677
Caldwell	331	393	37	2	355
Cameron	289	93	31	35	.....
Catahoula	428	410	360	81	853
Claiborne	2040	393	690	1	109
Concordia	1500	399	289	21	83
De Soto	1093	470	536	.....	282
East Baton Rouge	1477	1004	1647	323	3
East Carroll	91	210	110	985	.....
East Feliciana	1955	386	6	.....	107
Franklin	662	360	148	46	39
Grant	311	56	24	122	543
Iberia	897	1023	408	17	.....
Iberville	1517	1025	816	589	10
Jackson	654	126	.....	.....	383
Jefferson	1211	800	454	114	14
Lafayette	1059	569	3	37	.....
Lafourche	1000	1804	1080	66	.....
Lincoln	1538	152	67	.....	124
Livingston	553	265	214	.....	131
Madison	3030	34	80	162	7
Morehouse	1082	301	16	33	2
Natchitoches	1076	602	128	334	717
Orleans	11516	18589	5661	2152	70
Ouachita	2549	1249	6	22	28
Plaquemines	1133	482	213	1163	.....
Pointe Coupée	671	746	2069	31	5
Rapides	2983	439	100	780	639
Red River	663	165	206	.....	244
Richland	961	378	4	22	.....
Sabine	950	109	.....	.....	731
St. Bernard	126	564	108	300	.....
St. Charles	75	234	986	52	.....
St. Helena	536	122	282	22	38

APPENDIX A

THE OFFICIAL RETURNS OF THE GENERAL ELECTION OF 1892*

<i>Parishes</i>	<i>M. J. Foster</i>	<i>S. D. McEnery</i>	<i>A. H. Leonard</i>	<i>J. E. Breux</i>	<i>R. H. Tannehill</i>
St. James	766	579	1285	296	.....
St. John the Baptist	320	586	1273	18	.....
St. Landry	3434	611	1222	2419	173
St. Martin	965	359	3	1	.....
St. Mary	3134	391	429	103	4
St. Tammany	609	479	154	324	127
Tangipahoa	950	442	110	511	165
Tensas	207	190	1264	190	.....
Terrebonne	622	1169	288	9	.....
Union	2147	276	4	67	238
Vermilion	1013	364	203	70	71
Vernon	195	247	3	.....	506
Washington	656	68	315	.....	186
Webster	1214	71	107	4	49
West Baton Rouge	376	307	853	28	14
West Carroll	333	186	4	.....	25
West Feliciana	1112	1193	177	.....	3
Winn	136	111	58	.....	1001
(Totals)	79,388	47,037	29,459	12,359	9,792

* These returns are taken from the Louisiana Senate Journal, 1892, pp. 21-22.

APPENDIX B

VOTE FOR GOVERNOR, APRIL 21, 1896*

<i>Parishes</i>	<i>Foster</i>	<i>Pharr</i>	<i>Booth</i>	REGISTRATION OF VOTERS AS OF JANUARY 1, 1897**	
				<i>White</i>	<i>Black</i>
Acadia	1162	2182	.....	3329	649
Ascension	1946	1909	.....	2165	2621
Assumption	1087	2699	.....	2637	2528
Avoyelles	2570	1609	.....	2930	2544
Bienville	1547	959	.....	2325	1325
Bossier	3464	58	.....	1309	3931
Caddo	3210	277	.....	2317	4265
Calcasieu	2101	3531	.....	5935	2284
Caldwell	376	815	79	763	597
Cameron	349	259	.....	585	87
Catahoula	518	1239	12	1730	1200
Claiborne	1495	1850	.....	2180	1955
Concordia	3013	80	.....	525	3461
De Soto	1994	608	.....	2204	2913
East Baton Rouge...	1470	4859	.....	2860	5223
East Carroll	2635	.....	.....	275	3250
East Feliciana	2514	239	.....	1198	2595
Franklin	1093	658	.....	880	1026
Grant	440	1430	.....	1862	910
Iberia	1045	1284	.....	3056	1290
Iberville	3092	251	.....	1800	3466
Jackson	447	984	.....	1144	474
Jefferson	3211	878	.....	3052	3712
Lafayette	1509	654	.....	3658	625
Lafourche	1817	1934	.....	4784	3283
Lincoln	878	1286	.....	2516	1436
Livingston	579	764	2	1614	350
Madison	1803	.....	.....	290	2090
Morehouse	1032	385	.....	890	2835
Natchitoches	1030	1186	.....	3340	1312
Orleans	26330	21683	.....	48892	14176
Ouachita	2337	850	.....	1738	2333
Plaquemines	1832	1582	.....	1893	1981
Pointe Coupée	2123	1891	.....	1349	4169
Rapides	4373	1411	.....	6864	3349
Red River	1140	605	.....	831	1502
Richland	1069	1086	.....	824	1859
Sabine	934	1033	.....	3533	682
St. Bernard	945	331	36	869	852
St. Charles	979	763	.....	558	2138

APPENDIX B

VOTE FOR GOVERNOR, APRIL 21, 1896*

Parishes	Foster	Pharr	Booth	REGISTRATION OF VOTERS AS OF JANUARY 1, 1897**	
				White	Black
St. Helena	512	713	.....	842	792
St. James	1801	1795	.....	2071	3030
St. John the Baptist ..	1592	787	.....	662	947
St. Landry	2557	256	.....	4697	3160
St. Martin	1339	225	.....	2229	1980
St. Mary	1102	3483	.....	2560	3969
St. Tammany	961	951	.....	1684	1152
Tangipahoa	1501	1466	.....	2290	1015
Tensas	1968	.....	.....	605	5335
Terrebonne	1286	2203	.....	2547	2368
Union	1279	1353	.....	2042	1467
Vermilion	760	1906	40	3266	687
Vernon	421	607	.....	1341	70
Washington	694	738	7	1195	420
Webster	1553	530	.....	1561	1380
West Baton Rouge...	1461	956	.....	609	1757
West Carroll	362	367	.....	305	584
West Feliciana	3093	1	.....	575	2771
Winn	385	959	.....	1503	185
(Totals)	116,216	90,138	176	164,088	130,344

* From Louisiana Senate Journal, 1896, p. 22.

** From Official Journal of the Proceedings of the Constitutional Convention of the State of Louisiana, . . . 1898, inset between pp. 42 and 43.

APPENDIX C

RESULTS OF THE SENATORIAL ELECTION OF 1912*

<i>Parishes</i>	<i>Foster</i>	<i>Ransdell</i>
Acadia	1492	1276
Ascension	538	921
Assumption	669	540
Avoyelles	831	1672
Bienville	726	773
Bossier	309	406
Caddo	1279	1836
Calcasieu	1538	2877
Caldwell	101	488
Cameron	102	172
Catahoula	137	546
Claiborne	563	602
Concordia	54	337
De Soto	523	796
East Baton Rouge	862	1170
East Carroll	53	230
East Feliciana	300	423
Evangeline	614	775
Franklin	206	549
Grant	440	494
Iberia	728	1076
Iberville	550	492
Jackson	363	879
Jefferson	887	267
Lafayette	997	1248
Lafourche	1363	680
Lincoln	532	637
Livingston	418	620
La Salle	173	682
Madison	20	218
Morehouse	123	515
Natchitoches	541	1054
Orleans	19663	16763
Ouachita	409	1326
Plaquemines	511	246
Pointe Coupée	621	399
Rapides	1003	1461
Red River	450	425
Richland	134	577
Sabine	726	580
St. Bernard	346	52
St. Charles	269	103
St. Helena	269	242
St. James	608	553
St. John the Baptist	384	122

APPENDIX C

RESULTS OF THE SENATORIAL ELECTION OF 1912*

Parishes	Foster	Ransdell
St. Landry	1117	947
St. Martin	747	726
St. Mary	1210	423
St. Tammany	728	731
Tangipahoa	795	1011
Tensas	8	262
Terrebonne	653	502
Union	428	983
Vermilion	962	1008
Vernon	723	829
Washington	555	629
Webster	207	460
West Baton Rouge	203	333
West Carroll	71	397
West Feliciana	284	172
Winn	449	600
(Totals)	52,565	57,935

* From Edward Everett (comp.), *Compilation of Primary Election Returns of the Democratic Party, State of Louisiana* (Baton Rouge, 1912).

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**INDEX TO THE SPANISH JUDICIAL RECORDS
OF LOUISIANA
LXXXI.**

May, 1785

(Continued from April, 1945, Quarterly)

**By LAURA L. PORTEOUS
(With Marginal Notes by Walter Prichard)**

Spanish officials appearing in this installment:

Esteban Miró, Colonel of the Fixed Regiment of this Place, and Governor ad interim of the Province of Louisiana.

Martin Navarro, Intendant General of the Province of Louisiana.

Juan Ventura Morales, acting Intendant General, in the absence of Martin Navarro.

Juan Doroteo del Postigo y Balderrama, Auditor of War and Assessor General for the Province of Louisiana.

Alcaldes: Nicolas Forstall; Renato (René) Huchet de Kernion; Luis Toutant Beauregard; Guido Dufossat (1786); Josef de Orué (1786).

Escribanos: Rafael Perdomo; Fernando Rodriguez.

Official Interpreters and Translators: Juan Josef Duforest; Estevan de Quiñones.

Public Attorneys: Antonio Mendez; Pedro Bertonière.

Joseph Ducros, General Receiver.

Antonio Suya, Sheriff (Commissioner for Arrests) at New Orleans.

Nicolas Fromentin, Deputy Sheriff at New Orleans.

Luis Lioteau, Official Taxer for Costs of Court.

Wardens of the Royal Prison in New Orleans: Francisco Sanchez; José de Peña (1786).

Nicolas Delassize, Commander of the Post of Pointe Coupée.

Francois Allain, acting Commander of the Post of Pointe Coupée, in the absence of Nicolas Delassize.

Jean Baptiste Rainaud, Sheriff at Pointe Coupée.

May?, 1785.

**Francisco Pousett vs.
Andres Jung.**

No number. 2 pp.

Court, Judge not named.

Assessor, not named.

Escribano, not named.

To collect a debt.

This suit, instituted to compel the payment of a balance due on the purchase price of a vessel, sold to the defendant in 1776, contains some interesting features. The purchaser charges fraud and misrepresentation on the part of the vendor of the vessel. He claims that the vessel is only about half the capacity that it was represented to be; and in support of his charges he presents the Bill of Sale by which he acquired ownership of said vessel. The records here presented in the case are incomplete, and the final outcome of the litigation is not revealed.

Although no Court officials are named in the documents presented, the suit must have been brought in the Court of the Intendant, which had jurisdiction over all such maritime matters in Spanish colonial Louisiana.

does not owe, as he can prove in his own time and that, speaking with due respect, he also asks that the said decree be revoked and a judgement rendered as he has petitioned. He further requests that the records of the case be delivered to him so he may enforce his demand. (Signed) Jung.

Act of Sale.

The Act of Sale for the Brigantine, written in French, reads: I, the undersigned, Francois Pousett, acknowledge to have this day sold, ceded, conveyed, transferred and abandoned, from now and forever, with promise of guaranty from all debts, mortgages and all other impediments, generally whatsoever to Mr. Andre Jung, a resident of this city of New Orleans, a brigantine named the Amiable Jenny, of about 160 tons, at present moored on the Mississippi River, in front of Mr. Livaudais' plantation, with all its riggings, sails, and equipment such, and as well as all that it contains, and as circumstances and dependencies may require, without any reservation and retention, and in conformity to the inventory that has been made in duplicate, in the presence of Mr. Jung for all of which he said he was pleased and satisfied, because he has seen and examined everything, and is in possession to do with, enjoy and dispose of, in full ownership as a thing belonging to him, and that the said sale, cession, transfer and

This record consists of two detached pages, numbered 5 and 6. The first is a petition presented by the defendant answering a suit entered by the plaintiff; the second, a copy of an act of sale, as this is a maritime case, it must have been tried in the Court of the Intendant General.

The petition reads, in part: that Andres Jung, in the cause prosecuted against him by Francisco Pousett for the collection of a certain sum of money, as a remainder of the purchase price of a brigantine sold to him, says that, as he has stated in his declaration, fraud and misrepresentation has been restored to, by the vendor, in selling him a brigantine represented to be of 160 tons, as appears from the paper attached to this petition, when in reality it has only about one-half that capacity. Therefore he prays it may please the Court to order that he does not have to pay this sum, which he

abandonment thus made is in consideration of and for the sum of 1600 piastres gourdes that I, the said Pousset, acknowledge and confess to have received this day, in cash, from the said Mr. Jung and for which I have given him a receipt. The present is made in duplicate in New Orleans, in the Province of Louisiana, on the eighth day of the month of February of one thousand seven hundred and seventy-six. (Signed) Francois Poussett.

May 2.

Proceedings brought by Mr. Boisdoré to have Mr. Ducieau free a negro belonging to him, named Antonio.

No. 90. 9 pp.

Court of Governor
Esteban Miro.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This case possesses some interest for the student of law in Spanish colonial Louisiana, principally for the minutely detailed provisions of the Power of Attorney herein presented—a common practice in such documents. The documents entered in the suit contain nothing else of any special interest.

The first document filed in this record is a Power of Attorney by which Santiago Darvona (Terrebonne), a resident of Opelousas, at present in this city, grants his complete, ample and sufficient power of attorney, as the law requires, and as is necessary, to Louis Badoré (Boisdoré), also a resident of this city, so that in his name and representing his proper person, rights, and actions, he may demand, receive and collect judicially and extrajudicially, any amount of merchandise, pesos, slaves, gold, silver, or jewels, the fruits of the earth and other effects of any sort that may be due him, or may be owed to him in the future, by written notes, bills, inheritances, donations, clauses of wills, or by any

other title, or reason, whatsoever, although not declared here, nor the said amounts, effects, nor the persons that owe them, for which he must ask and take account in any place where the charges may be made, and admitted as just, appoint arbitrators and name a third in discord, to adjust, liquidate, resolve and determine the doubts and difficulties that may be offered, and to liquidate the balances resulting in his favor, to collect and grant receipts, discharges, adjustments, procurations, and make payments for others, with attestation of the delivery, and in this case renunciation of the laws bearing upon the particular, issuing public and private written instruments that may be required for validation, with all the bonds and security that may be necessary for its validity, which he now approves for fulfillment as he, the grantor, would, were he present, and for all his lawsuits, civil and criminal causes, ordinary transactions and executory proceedings, instituted or to be instituted, demanding and defending with any person whomsoever that can settle for himself, adjust and compromise in Court, arbitrate, swear in arbitrators and amiably name to this end arbitrators that seem to him fit and also a third in discord, with the necessary instruments, for all of which he may appear before the Justices of His Majesty as he can and must

by right, whenever it may be required, present written instruments, witnesses, proofs and other securities and papers that he may draw up whenever they will be necessary, request execution, embargo, sales, legal seizure, and auction of property of which he has taken possession, or protection, and the corresponding terms for any kind of proof, receiverships, requisitions, writs and other despatches and censures that he may have to read, publish and intimate from whence and to whom it may be suitable, set down the testimony given in depositions, and present it, offer, swear in and know the witnesses of the opposition, and place objections and find flaws, answer said and persons, he may make oath and recusations, hear decrees, interlocutory and definitive sentences, and favorably consent to them, appeal from the prejudicial, and answer and prosecute the appeals, and petition in justice for what he must, and finally sue, act, perform and take all other judicial and extrajudicial proceedings that may be requisite, without any exception through lack of procuration, clause, or special circumstance, that should be included here, left to be executed, because for the abovesaid he confers upon him sufficient power, without limitation, with free, frank and general administration, incidents and dependencies, with the faculty to bring suit against, to swear, to substitute and revoke substitutions, and name others, with relevation in due form, and for the stability with which he must perform it, the grantor obligates his present and future estate, with submission to the jurisdiction of the Justices of His Majesty, and the guaranty clause that he inserts here for its fulfillment. In testimony whereof this act is executed in the city of New Orleans, on April 25, 1785. The Notary attests that he knows the grantor, who signed, the witnesses being Francisco Carcasses and Manuel Monrroy, here present. (Signed) Santiago Derbone; before Rafael Perdomo, Notary Public.

I give this copy, corrected with the original on the day of its execution, at the request of the party, on seven pages of common paper, stamped paper not being in use here. Cross and Flourish. (Signed) Rafael Perdomo, Notary Public. Rights to Taxation.

The Plaintiff petitions to free a slave. Santiago Terbonne, a resident of the Post of Atakapas, presents the above certified copy of his Procuration and petitions His Lordship, setting forth that he wishes to emancipate a mulatto slave, named Antonio, belonging to Mr. Ducieau, and to give him his freedom immediately; therefore he prays the Court to order an appraisement made of him, for which purpose he names Martin Braquier, a resident of this city, as his appraiser and asks to have this appointment confirmed by Governor Miro, so that he may accept and take oath in due form, and that the other party be directed to name his within one day, with a warning that if

he fails to do so the Court will proceed with the one already appointed. (Signed) L. Boisdoré.

Governor Miro, on Juan del Postigo's advice, rules: The Procuration having been presented, let the appraiser that this party mentions, be appointed. He must be notified for his acceptance and oath. Let the defendant be notified to name his appraiser within one day. (Signed) Miro; Postigo.

Notification.

On the said day, month and year (May 2, 1785), the Escribano inquired for Mr. Ducieau in this city and was informed by trustworthy persons that he made his home in the country, in testimony whereof he sets this down as a matter of record, to which he attests.

[**Translator's Note:** As the defendant cannot be found in this city, the case rests until such time as the Court may locate him, or the plaintiff ascertain his whereabouts and ask to have the cause resumed.—L. L. P.]

May 3 (1783).

Paper of Mr. Latourneau.

No. 3058. 2 pp.

Court of, the Judge not named.

Assessor, not named.

Escribano, not named.

To pay a bill.

This case contains nothing of particular interest, except information as to the dangers and hazards of travel between Louisiana and Europe in those days, and the difficulties encountered in transmitting funds between those two points.

may present his claim at my father's house, Joseph L'Etournau De St. Equlain, an Official of the Mint of Bordeaux. (Signed) G. L'Etournau De St. Equlain, 2nd Lieutenant of the ship, The Viscount of Noaille. New Orleans, May 3, 1783. Here since the arrival of the ship, The Viscount of Noaille. (Signed) G. L'Etournau de St. Equlain.

In case I have the misfortune to perish with the ship, The Viscount of Noaille, I pray my father, Joseph L'Etournau De St. Equlain, to pay Mr. Foulquier, a merchant of Bordeaux, or his order, the sum of 300 piastres that I have received from Mr. Bouquer, remitted to him under 5% insurance. This is what he asked, which will be all that he will have to offer to pay. (Signed) G. L'Etournau De St. Equlain.

Evidently this note is an exhibit originally intended to form the basis of a suit. The date on the fly leaf places it in 1785, although the actual date of the note is May 3, 1783. It is in French and reads: I, the undersigned, declare to have received the sum of 300 piastres gourdes from Mr. Bouquer, which I promise to remit in kind to Mr. Foulquier of Royal Square, Bordeaux, or his order, under the conditions that if I have the good fortune to make the voyage safely, he will pay me 5% insurance, and if on the contrary I have the misfortune to perish with the ship, he

May 4.

**Executory Process.
Jacinto Bernal vs.
Guillermo Quays.**

No. 80. 7 pp.

Court of Alcalde
Nicolas Forstall.

Assessor, none named.

Escribano, Rafael Perdomo.

To collect a debt.

This suit to collect a sum of money due on a note contains no unusual features.

The first document filed with this suit is a certified copy of a protest, and reads in part:
In the city of New Orleans, on April 20, 1785, before the undersigned Notary Public and witnesses, appeared: Jacinto Bernard (Bernal), a resident of this port and city, known to the Notary, who said that Guillermo Quays (Quais), also of this city, is a debtor to Isaac (Isaac) Mitcel, for the sum of 140 hard pesos, by a simple note granted in his favor on January 10, of this current year, to be paid within three months. This time expired on the 10th of the present month, and having exhibited the note before the Notary, he verified it, and is convinced that it should be paid to the said Mitchel (Mitcel), or his order, and signed on the back to this effect. For all of this, and the grantor having civilly reminded the said Quays, on the day of maturity, that he must make payment for its redemption, not only was the said reminder fruitless on that occasion, but an additional ten days of grace were also conceded to him, in accordance with the customs of commerce, which ended on the date of this written document, and inasmuch as these inflict known losses and arrears upon the grantor, he cannot look with indifference upon the matter; therefore, from now, in the best form of law that he can petition, he protests for the first, second, third and as many times as are necessary, so that in consequence thereof all the damages, arrears, prejudices and losses that may be caused to him for the said sum and profits, according to the usages and customs of commerce, must be at the risk and for the account of the said Quays, for thus he protests and swears, and he also prays for a certified copy of this act to use when and before whom it may be convenient, for thus it is granted, protested and signed, the witnesses being Francisco Carcases, and Manuel Monrroy, here present. (Signed) Jacinto Bernard; before Rafael Perdomo.

The Escribano gives the present copy, corrected with the original, at the request of the party, on three sheets of common paper, because stamped paper is not used here, on the same day as its execution. Cross and Flourish. (Signed) Rafael Perdomo, Notary Public. Rights to taxation.

Receipt.

Received from the present Escribano, the note that was filed on this page, just as soon as payment was made of the amount specified in it, which I acknowledge to have received, and I grant this receipt, in due form, which I sign in New Orleans, on May 7, 1785. (Signed) Wm. Quays.

The Plaintiff petitions to have the defendant verify his debt.

Jacinto Bernard petitions to say that, as may be seen from the note and the certified copy of the protest which duly accompany this, William Quays owes him 140 hard pesos, in virtue of the endorsement of the said note, made in his favor by Isac Mitchel, but up to the present he has not paid the debt, notwithstanding the polite reminders he has made to collect the money; therefore, and so as to institute executory proceedings, may it please His Honor to order the abovesaid Quays, under the sacredness of his oath, to acknowledge and declare whether the writing and signature are his, and whether it is true that he owes the amount specified in the said note. He further prays that, having presented a copy of the protest, it may please the Court to receive the said declaration, the taking of which to be entrusted to the Escribano, and done, the deposition be delivered to him. Alcalde Forstall rules: The documents having been presented, let the defendant swear and declare to its contents, as requested; entrust the taking of the declaration to the Escribano, and done, deliver it to the plaintiff.

Declaration.

In the city of New Orleans, on May 6, 1785, the Escribano, pursuant to the decree, went to Guillermo Quays' dwelling house to receive his declaration, as was ordered by the said decree, and upon arriving there he received the oath that he took by God and the Cross, according to law, under charge of which he promised to speak the truth, and placing on manifest the note filed on page 4, he said that the writing and signature that make the note valid are his and the one he is accustomed to use, that it is true that he owes the amount demanded, that he will pay the 140 pesos immediately, and he answered that what he has declared is the truth, under charge of his oath, and that he is 30 years of age, and he signed, to which the Escribano attests. (Signed) Wm. Quays; before Rafael Perdomo.

Exhibition.

In the city of New Orleans, on May 6, 1785, before the Escribano, appeared: Guillermo Quays, who exhibited the sum of 140 pesos, which he owes and which were demanded by Jacinto Bernard, which said Escribano maintains provisionally in his possession to be delivered to the said Bernard, to which he attests. (Signed) Rafael Perdomo.

Receipt.

In the city of New Orleans, on May 7, 1785, the Escribano delivered to Jacinto Bernard, of this city, the sum of 140 pesos that was held in his possession provisionally, in accordance with the foregoing decree, who acknowledges to have received this amount and grants this receipt, in due form, and he signed, the witnesses being Francisco Carcasses and Manuel Monrroy, here present, to

which the Escribano attests. (Signed) Bernard; before Rafael Perdomo, Notary Public and Clerk of the Court.

[**Translator's Note:** This suit is completed, except for the taxation of costs, because by referring to the second entry, it will be seen that the original of the note, that went to protest, was returned to the defendant when paid.—L.L.P.]

May 6.

Nicolas Delassize petitions to turn over to Luis Dapremont a sum of money that is in his possession.

No. 3025. 2 pp.

Court of Governor
Esteban Miro.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This case is interesting for the legal procedure involved when a person, about to sail for France, seeks authorization to turn over to another colonial resident a sum of money which he has collected for a resident of Paris, France, in the settlement of a succession under his charge.

Nicolas Delassize appears before Governor Miro to set forth that, as Testamentary Executor and Guardian of the estate left by Mr. Descoudreaux, he is indebted to Mr. Renard, resident of Paris, for the sum of 800 pesos, the full amount of a legacy willed to him by the said Descoudreaux, his brother, and having wished to pay this bequest, he sent him a bill of exchange for this amount, drawn by Oliver Pollock, which has been protested and not paid, according to a letter he has received from the said Renard, and being anxious to finish all his business transactions here, before his departure for the Kingdom of France, and having been informed that Mr.

Dapremont has a Power of Attorney, ample and sufficient to collect the said sum, he prays His Lordship to order the said Dapremont to receive the 800 pesos from him, in notes, or certificates of the Royal Treasury of this Province, which in themselves represent hard silver, because there is no other money of the King passing current in this Colony, for all payments from His Majesty, after taking the amounts due to pay the soldiers of His Majesty, and to condemn the said Mr. Dapremont to deliver to him the protest of the said bill of exchange, as soon as possible, so as to enable him to take action against Mr. Pollock, and that Mr. Dapremont give him a receipt for the 800 pesos and declare him free of all responsibility, for all time, so that no one can ever again take recourse against him for the said amount, and to decree that the Descoudreaux estate pay the costs occasioned for this collection, the petitioner agreeing to pay the costs for his receipt.

Decree.

Considering the Power of Attorney, let the sum of 800 pesos be delivered to Mr. Dapremont, that Nicolas de la Ciche (Delassize), as testimony executor of Mr. Descoudreaux, owes Mr. Renard. Mr. Dapremont must issue the necessary receipt to the

said Mr. Delassize, for the aforementioned amount. (Signed) Miro; Postigo.

[**Translator's Note:** The record ends here. These two pages have evidently become detached from the rest of the proceedings.—L. L. P.]

May 8.

Maria Teresa, a free mulatress vs. the Josef Silba succession, to collect a debt.

No. 3089. 3 pp.

Court of Governor Esteban Miro.

Assessor, Juan del Postigo.

Escribano, Fernando Rodriguez.

This suit affords an excellent illustration of the legal procedure involved in the comparison of signatures, in order to validate a note held against a person deceased.

Maria Theresa, a free mulatress, petitions to say it is evident from the notes duly presented in this suit (not included in the records), that the succession of the late Joseph Silba owes her 80 pesos 6 reales for bread that she has supplied him; therefore she prays the Court to order her paid from the product of his estate. Governor Miro, on Assessor Postigo's advice, rules: The notes having been presented, let the present Escribano compare their signatures with those in his file, and done, return the matter to the Court.

Comparison of signatures.

In the city of New Orleans, on the said day, month, and year (May 8, 1785), the Escribano, in virtue of the foregoing decree, examined the Public Registry in his charge and found several signatures of Joseph Silba, and having compared them with the ones on the notes presented in this suit, they seem to him to have been made in the same handwriting, and in testimony whereof he signs and attests. (Signed) Fernando Rodriguez.

Decree.

Considering the comparison made by the present Escribano, let Miguel San Juan pay Maria Teresa, the free mulatress, 15 pesos, on account, for a larger sum due her, from the remainder of the Joseph Silba estate, as appears from the records of the succession to be extant.

May 9.

Criminal Proceedings against one named Barnabe.

No. 2988. 67 pp.

Court of Governor Esteban Miro.

Written in French: Proceedings instituted at the Post of Pointe Coupée, by Jean Baptiste Tounoir, a merchant of the said Post, against one named Barnabe, a rower engaged on his boat to go up from New Orleans to the Said Post. May 9th and 10th, 1785.

The first entry is a petition directed to Mr. Allain, Commander

Assessor, Juan del Postigo. of the Post of Point Coupée.

Escribano, Fernando Rodriguez.

This criminal trial of a man charged with assault possesses some interesting features. The suit was instituted in the Court of the Commander of the Post of Pointe Coupée. The testimony of all the witnesses was taken there, after which the case was transferred to the Governor's Court in New Orleans. The accused was arrested and imprisoned in the Royal Prison in New Orleans; and a search was made for any property which he might possess, although nothing was found. The accused entered a general denial of all the charges, even denying that he had ever seen or been in company with the plaintiff or any of the nine witnesses who had testified against him at Pointe Coupée; and he continued his denial, even when confronted with the plaintiff. The plaintiff then gives his Power of Attorney to a New Orleans lawyer, authorizing him to continue the prosecution of the case until final sentence. After the case drags on for well over a year, and some of the Court officials in New Orleans have criticized some of the records presented in the case because of their irregularity, the plaintiff, apparently in disgust, withdraws the charges against the accused—since he says that he has already been sufficiently punished by his long imprisonment. The accused is then set at liberty, and all the costs of the suit are assessed against the plaintiff.

he prays considering what is stated in the present petition, to order the aforementioned persons to appear and testify to the truth, which is the justice that he hopes to obtain. Rainaud signed for Mr. Tounoir, at his request, because he does not know how to write. (Signed) Rainaud.

Decree.

At Point Coupée, May 9, 1785.
Considering the above petition, let the aforementioned Charles Tourangeau, Andre Bonnavenu, Alexis Turpeau and Pierre Joseph appear today at 2 o'clock in the afternoon, and Jean Francois, Jean Cabral, Francois Caseneuve, Manuel Suel, and Manuel Garry also appear before him tomorrow morning, the 10th day of the present month, at 8 o'clock, to make their declarations upon the facts mentioned in the present complaint. (Signed) Francois Allain.

Notification of the 1st witness.

In the year one thousand seven hundred and eighty-five, and the ninth day of May, Jean Baptiste Rainaud, Sheriff if this jurisdiction, has summoned Charles Tourangeau, speaking to him in person, so that he would not be ignorant of the citation to appear this day, at 2 o'clock in the afternoon, before the Commander of this post to answer and to proceed to the ends requested in the petition and the decree rendered thereunto, and in testimony whereof. (Signed) Rainaud.

Jean Baptiste Tounoir, a merchant of the said Post, sets forth that he left New Orleans about fifteen days before, and that on the afternoon of May 1st they camped one league above the Iberville Church, where one of his rowers, named Barnabe, had a dispute with him, the latter saying: "You say I do not row well," and after these words, he gave the petitioner a blow on the head with his ax, which knocked him down and caused him to lie on the ground, as dead. His assailant was also armed with a knife. After Barnabe committed this crime, he said to the plaintiff: "I wish you would pay me at once." All this happened in the presence of Charles Tourangeau, Andre Bonnavenu, Alexio Turpeau, Pierre Joseph, Jean Francois, Jean Cabral, Francois Caseneuve, Manuel Suel, Manuel Garry; therefore

Notification of the 2nd witness.

On the said day and year, as above, the undersigned Sheriff personally notified André Bonnaventura to appear this day, at 2 o'clock in the afternoon, before the Commander of this Post, to answer and proceed to the ends specified in the decree rendered to the above petition, and in testimony whereof. (Signed) Rainaud.

Notification of the 3rd witness.

On the said day, month and year, as above, the undersigned Sheriff personally summoned Alexis Turpeau to appear on this day, at 2 o'clock in the afternoon, before the Commander of this Post, to answer and proceed to the ends requested and to the decree rendered to the above petition, and in testimony whereof. (Signed) Rainaud.

Notification of the 4th witness.

On the said day, month and year, as above, the undersigned Sheriff summoned Pierre Joseph to appear this day, at 2 o'clock in the afternoon, before the Commander of this Post, to answer and proceed with the ends stipulated in the foregoing petition and decree, and in testimony whereof. (Signed) Rainaud.

Notification of the 5th witness.

On the said day, month and year, the undersigned Sheriff summoned Jean Francois, speaking to him in person, to appear tomorrow, at 8 o'clock in the morning, before the Commander of this Post, to answer and proceed to the ends of the aforesaid petition and decree, and in testimony whereof. (Signed) Rainaud.

Notification of the 6th witness.

On the said day, month and year, as above, the undersigned Sheriff summoned Jean Cabral to appear tomorrow, at 8 o'clock in the morning, before the Commander of this Post, to answer and proceed to the ends stated in the aforesaid petition and decree, and in testimony whereof. (Signed) Rainaud.

Notification of the 7th witness.

On the said day, month and year, as above, the undersigned Sheriff summoned Francois Casenaue personally to appear tomorrow, at 8 o'clock in the morning, before the Commander of this Post, to answer and proceed to the ends specified in the aforementioned petition and decree, and in testimony whereof. (Signed) Rainaud.

Notification of the 8th witness.

On the said day, month and year, as above, the undersigned Sheriff personally summoned André Suel to appear tomorrow, at 8 o'clock in the morning, before the Commander of this Post, to answer and proceed to the ends specified in the petition and decree, and in testimony whereof. (Signed) Rainaud.

Notification of the 9th witness.

On the said day, month and year, as above, the undersigned Sheriff personally summoned Manuel Garry to appear, at 8 o'clock in the morning, before the Commander of this Post, to answer and proceed to the ends stated in the foregoing petition and decree, and in testimony whereof. (Signed) Rainaud.

Declaration of the 1st witness.

At the Post of Point Coupée, on May 9, 1785, at 2 o'clock in the afternoon, in virtue of the complaint made by Mr. Tounoir, merchant of this Post, against one named Barnabe, a rower on his boat, in the presence of two assistant witnesses, because there is no Notary Public in this jurisdiction, before Francois Allain, Commander of this Post, in the absence of Nicolas Delassize, appeared: Charles Tourangeau, a resident of Baton Rouge, in this district, a rower on Mr. Tournoir's boat, who after taking oath and making a Sign of the Cross to speak the truth, declared: That on the first of the present month of May, at about 8 o'clock in the evening, they camped a league above the Iberville Church, and sitting with his head in his hands, he heard Barnabe reproach Tournoir, stating several times that he did not row well, and that Mr. Tournoir answered, there was nothing more true, then Barnabe added that if this is so, pay me and I will go. To which Mr. Tounoir replied: I will pay you when we reach Pointe Coupée. A moment afterwards the witness heard a blow; he got up immediately and found the said Tournoir holding his sides and complaining bitterly. Barnabe had an ax in one hand, and a knife in the other, threatening to open the belly of the first one who dared approach, be he French or Spanish. At that time the witness was without arms to defend himself, and so as to place Mr. Tounoir's life in safety, he went to look for help at the nearest plantation, which was about an arpent away from the camp, but the said Barnabe prevented, stopped him by pointing a knife at this throat, and forced him to return to camp and go on the boat. The witness had seen Barnabe ask Mr. Tounoir for his money, with a threat that if he did not pay him immediately he would well see other things. Then Mr. Tounoir opened his trunk, for Venus, a free negress, and gave a 10 peso paper note to him, although he only owed him 8 pesos, and also some biscuits that he had demanded. The witness added that on the morning of the following day Mr. Tounoir was taken by his rowers, on his boat, to Dr. Flower's plantation, where he was bled and cured within four days. On the second day after his arrival at the Doctor's, he had a sinking spell that lasted six or seven hours, and it was thought each moment that he was going to die. Finally, on the 8th of this month, he arrived at Pointe Coupée, having been very ill all the while. This declaration was read to Charles Tourangeau, and he said he had nothing to add to it. The deposition was made in the presence of Ricard de Rientord and Diego Ortis, assistant witnesses, who signed with the Commander, the

day and year, as above, with the exception of Charles Tourangeau, who said he did not know how to write, to which they attest. (Signed) Ricard de Rientord; Diego Ortiz; Francois Allain.

Declaration of the 2nd witness.

On the said day and year, as above, in the presence of the same witnesses, in consequence of the complaint of the aforementioned, before Francois Allain, Commander of the Post of Pointe Coupée, in the absence of Nicolas Delassize, appeared: André Bonnaventure, a resident of this Post, who after taking oath and making a Sign of the Cross to speak the truth, declared that he had been hired as a rower on Mr. Tounoir's boat. They camped the first day of May at a league above the Iberville Church, and at about 8 o'clock that night, as he was talking to Tounoir, Barnabe, one of the rowers, came to ask for his money for the voyage, and the former answered he would pay him at Pointe Coupée, which was the end of the trip. During these difficulties, the witness retired to the side of the boat, and a little while afterwards he heard the blow that Barnabe gave Tounoir, and having gone to his rescue, found the latter in great pain, unable to breath, caused by the blow he had received. Then he took him by the arm and led him to his boat, under the awning, to take him away from Barnabe's anger, who had an ax in one hand and a knife in the other; threatening to open the belly of the first one to come near him. André Bonnaventure also declared that Barnabe, by his threats, had forced Mr. Tounoir to give him 10 pesos and some biscuits, and that on the morning of the following day Mr. Tounoir was taken in his boat to Dr. Flower's plantation where he was bled and cured within four days. After reading André Bonnaventure's declaration to him, he said he had nothing to add to it. This deposition was taken in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses, who signed with the abovenamed Commander, on the said day and year as aforesaid, with the exception of the witness, who said he did not know how to write. (Signed) Ricard de Rientord; Diego Ortiz; and Francois Allain.

Declaration of the 3rd witness.

On the said day and year, as above, in the presence of the same witnesses, in consequence of the complaint made by the aforementioned, before Francois Allain, Commander of the Post of Pointe Coupée, in the absence of Nicolas Delassize, appeared Alexis Turpeau, a free Indian half-breed, a resident of this Post, and after taking oath and making a Sign of the Cross to speak the truth, he declared he was hired as a rower on Mr. Tounoir's boat and that on May 1st, at about 8 o'clock at night, they camped one league above the Iberville Church. The said Tounoir was seated near the fire smoking his pipe, when Barnabe, one of his rowers, came to ask for his money for the voyage, stating that he did not wish to go any farther, because Mr. Tounoir reproached him continually for not rowing well. And then he answered Bar-

nabe: It is true that I am not very pleased with your way of rowing, but I do not wish to pay you until the end of our trip which is at Pointe Coupée. A moment after, he heard a blow which he presumed had been given with the head of an ax, as he saw Barnabe holding an ax in one hand and a knife in the other, threatening the first who would be bold enough to come near him. Alexis Turpeau further declared that Mr. Tounoir was in a bad condition, had trouble breathing and that Andre Bonnaventure, a rower like himself on the boat, having seen him so ill used, took him to the boat and did not leave him all during the night, and in the meanwhile the witness went to look for help at a nearby plantation, but having been discovered by Barnabe, he was forced to remain, as he was without arms to defend himself against a man who threatened to kill him. At this time Charles Tourangeau, another rower, took another road to go look for help and was also discovered by Barnabe, because of the light from the fire, who ran hastily towards him and would have cut his throat if he had attempted to pass, so in the end he was obliged to return to the boat. The witness then saw Barnabe force the rowers to prepare supper and keep up the fire, and immediately after to appeal to Mr. Tounoir to give him his pay, and unless he did he would see other things. Then the latter opened his trunk and took out a 10 pesos treasury note which he gave this man. The witness further added that Mr. Tounoir, after suffering all that night from the blow he had received, was taken, on the morning of the following day, to Dr. Flower's house, where he remained for four days and arrived at his own house, in Pointe Coupée, although still very ill, on the 8th of the present month. Alexis Turpeau's declaration was read to him, and he said he had nothing to add to it. His deposition was given in the presence of Ricard de Rientaud and Diego Ortiz, assistant witnesses, who signed with the Commander, on the said day and year, as above, with the exception of the witness, who said he did not know how to write. To which they attest. (Signed) Ricard de Rientaud; Diego Ortiz; Francois Allain.

Declaration of the 4th witness.

In the Post of Pointe Coupée, on the 10th of the month of May, of the year one thousand seven hundred and eighty-five, at 9 o'clock in the morning, pursuant to the complaint made in writing yesterday, by Mr. Tounoir, a merchant of this Post, before Francois Allain, Commander of the aforementioned Post, because of the absence of Nicolas Delassize, appeared: Pierre Joseph, a sailor and rower on Mr. Tounoir's boat, who after taking oath and making a Sign of the Cross to speak the truth, declared that on the 1st of this present month, at 8 o'clock at night, they were a league above Iberville Church, where Mr. Tounoir and his crew were camped, and having gone to bed a short distance from the fire, he heard Mr. Tounoir say to Barnabe, his rower, that he was carrion and did not row well. To which the latter answered:

If I am carrion, pay me for my voyage and I will go. Then Tounoir said: I will pay you when we arrive at Pointe Coupée. A moment afterwards the witness heard a blow, then Mr. Tounoir groaned and spoke these words: Ay, you have killed me; and going to his rescue immediately, he saw Barnabe holding an ax in one hand and a knife in the other, and as he tried to place himself between Tounoir and Barnabe, the latter raised his knife above his belly, but fortunately it was in its sheath. Pierre Joseph also declared that Barnabe threatened to kill the first that would be bold enough to approach him, and that he forced Tounoir to give him a 10 peso treasury note, saying that if he did not pay him he would well see other things, and that he would himself put out the fire, so that he could not see what he intended to do. And after reading Pierre Joseph's declaration to him, he said he had nothing to add to it, in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses, who signed with the Commander, on the said day and year, as above, with the exception of the witness, who said he did not know how to write. To which they attest, and in testimony whereof. (Signed) Ricard de Rientord; Diego Ortiz; Francois Allain.

Declaration of the 5th witness.

On the day and year, as above, in the presence of the same witnesses, on the same complaint, before Francois Allain, Commander at Pointe Coupée, in the absence of Nicolas Delassieze, appeared: Manuel Suel, a rower on Mr. Tounoir's boat, who after taking oath and making a Sign of the Cross to speak the truth, declared that the boat stopped, the first day of this present month, at about a league away from the Iberville Church, and while he was in bed on the ground, he heard Tounoir say to Barnabe, You do not row well. The latter answered: That he would have to pay him for the voyage. Tounoir responded that he would not pay him until they reached Pointe Coupée. Immediately after, he heard Tounoir groan because of the blow he had received from Barnabe, who had an ax in one hand and a knife in the other, threatening to kill the first one that would be bold enough to approach him, and even raised the knife against Pierre Joseph, another rower on the boat, who tried to place himself between Barnabe and Tounoir, and finding this man so determined, the witness remained in the same place until the moment Mr. Tounoir was taken on his boat, which he, the witness, entered with André Bonnaventure to prevent Barnabe from going on board, and to protect Mr. Tounoir's life, because Barnabe continued to threaten that if he did not pay him, he would well see other things. The witness added that the threats of this bad man caused Mr. Tounoir to decide to give Venus, a free negress, a 10 peso treasury note he had in his trunk, to hand to Barnabe, besides four cakes, or biscuits, that André Bonnaventure, also one of Tounoir's rowers, gave him. And after reading Manuel Suel's declaration to him, he said he had nothing to add to it, in the presence of Ricard de

Rientord and Diego Ortiz, assistant witnesses, who signed with the Commander, on the said day and year as above. (Signed) Manuel Suz (Suel); Ricard de Rientord; Diego Ortiz; Francois Allain.

Declaration of the 6th witness.

On the said day and month, as above, in the presence of the same witnesses, in consequence of the same complaint, before Francois Allain, acting Commander of the Post, appeared: Jean Cabrere, a rower on Mr. Tounoir's boat, who after taking oath and making a Sign of the Cross to speak the truth, declared that on May first, while camping for the night, at some distance above the Iberville Church, he was lying down on the ground to rest, but without going to sleep, and he heard Mr. Tounoir groan and pronounce these words, My God, My God, and upon raising his head, he saw him holding his side, with Barnabe, also a rower, holding an ax in one hand and a knife in the other, threatening to kill the first one one who dared to approach him. And after reading Jean Cabrere's declaration to him, he said he had nothing to add to it, in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses, who signed with the Commander, on the said day and year, as above, except the witness, who said he did not know how to write. To which they attest. (Signed) Diego Ortiz; Ricard de Rientord; Francois Allain.

Declaration of the 7th witness.

On the said day and year, as above, at two o'clock in the afternoon, in the presence of the same witnesses, in consequence of the same complaint, before Francois Allain, acting Commander of the Post of Pointe Coupée, appeared: Jean Francois, a sailor and rower in Mr. Tounoir's boat, engaged to go up to the said Post, who after taking oath and making a Sign of the Cross to speak the truth, declared: That on the first of the current month of May, they were camping some distance from the Church of Iberville, and when the witness was lying down on the ground, at about 8 o'clock at night, he heard Tounoir complain that his kidneys had been ruptured; the witness raising his head at that moment, saw Barnabe with an ax in one hand and a knife in the other, threatening to kill the first one who would be bold enough to come near him, and he, the witness, not being armed, did not dare to leave the place. A little while after, Tounoir was taken on his boat, and then Barnabe said they would well see other things, if he did not pay him for his voyage. Upon hearing this, Mr. Tounoir took a 10 peso treasury note, which was given to the aforesaid Barnabe. The witness added that Mr. Tounoir suffered all night from the blow he received and was taken the next day to Dr. Flower's house, where he remained four days, and finally arrived at Pointe Coupée, on the 8th of this month, having been ill all the while. After reading Jean Francois' declaration to him, he said he had nothing to add to it, in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses,

who signed with the Commander, the day and year as above, except the witness, who said he did not know how to write. To which they attest. (Signed) Ricard de Rientord; Diego Ortiz; Francois Allain.

Declaration of the 8th witness.

On the said day and year, as above, in the presence of the same witnesses, pursuant to the same complaint, before the same Commander, appeared: Manuel Garri, or Garry, a sailor and rower on Mr. Tounoir's boat, and after taking oath and making the Sign of the Cross to speak the truth, he declared that on May 1st they were camping a little above the Iberville Church, and as he was lying on the ground he heard Tounoir scream and pronounce these words: My God, My God and having raised his head, he saw Barnabe, also a rower on Tounoir's boat, who had a ax in one hand and a knife in the other; the witness then got up to give assistance. Barnabe was near him and threatened to kill all the Spaniards, as well as the French, who were on the boat, and as he had no arms to resist this man, he made up his mind to remain quiet. He added that when Mr. Tounoir was taken on board the boat, he heard Barnabe ask him for his money for the voyage, and to threaten in such a manner that the former was obliged to give him a 10 peso treasury note. After reading Manuel Garry's declaration to him, he said he had nothing to add to it, in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses, who signed with the Commander, on the day and year as above, with the exception of the witness, who said he did not know how to write. In testimony whereof. (Signed) Ricard de Rientord; Diego Ortiz; Francois Allain.

Declaration of the 9th witness.

On the said day and year, as above, in the presence of the same witnesses, in consequence of the same complaint, before the aforementioned Commander, appeared: Francois Caseneuve, a sailor and rower on Mr. Tounoir's boat, who after taking oath and making a Sign of the Cross to speak the truth, declared: That on the first day of May, while camping above the Iberville Church, he was doing kitchen work, on this particular night, and Mr. Tounoir was seated by the fire, smoking his pipe, when he heard Barnabe, one of the rowers, say to him, if you are not satisfied with me, and I do not row well, give me the money for my voyage; and a little while later he saw Barnabe draw near Mr. Tounoir, and strike him with the head of an ax that he had in one hand, while he held a knife in the other, threatening to kill the first who dared to come near him. The witness added that Barnabe forced him to throw water on the fire and had at the same moment compelled Mr. Tounoir to pay him for the trip, which the latter did immediately, after having heard continuous threats from Barnabe. After reading Francois Caseneuve's declaration to him, he said he had nothing to add to it, in the presence of Ricard de Rientord and Diego Ortiz, assistant witnesses, who signed with

the Commander, on the said day and year as above, with the exception of the witness, who does not know how to write. To which they attest. (Signed) Diego Ortiz; Ricard de Rientord; Francois Allain.

After having received the above declarations, in consequence of the complaint made by Mr. Tounior, a merchant of Pointe Coupée, against Barnabe, his rower, Francois Allain, Commander of the said Post of Pointe Coupée, in the absence of Nicolas Delassize, directed the present process to the Superior Court, as this lawsuit is for its competency alone. Pointe Coupée, May 10th, 1785. (Signed) Francois Allain.

Decree.

New Orleans, May 20, 1785.
Send these proceedings to Junior Alcalde Francisco Renato Huchet de Kernion, in whose Court this instance pends. (Signed) Miro.

Decree.

New Orleans May 21, 1785. Send these proceedings to the Auditor, so that he may advise me as to what is legal. (Signed) René Huchet de Kernion; before Fernando Rodriguez, Clerk of the Court.

Decree.

Let these proceedings, which have been presented, be translated by Juan Josef Duforest, and done, return the matter to the Court. (Signed) Postigo.

Notification.

On the said day, month, and year (May 23, 1785), the Escribano personally notified Juan Josef Duforest of the foregoing decree, and he said that he accepted and did accept, and swore by God, Our Lord, and a Sign of the Cross, according to law, to proceed well and faithfully with the translation he has been ordered to make, and he signed, to which the Escribano attests. (Not signed by Duforest;) before Fernando Rodriguez, Clerk of the Court.

Translation.

The Spanish translation of the proceedings taken in Pointe Coupée, written in French, are filed from page 16 to page 33.

Decree.

In the city of New Orleans, on June 7, 1785, Renato Huchet de Kernion, Alcalde Ordinario of this city and its jurisdiction for His Majesty, having examined these records, said: That considering what results from them, Barnabe is guilty of the crime charged against him, therefore he orders that he be arrested and held in the public prison of this city, whose imprisonment is entrusted to the Warden of it; his property must be sequestered and seized and placed in bond, which he grants in due form, for the purpose of which this decree will serve to issue the writ of seizure, for thus His Honor has provided, ordered and signed. (Signed) René Huchet De Kernion; Licenciado Postigo; before Fernando Rodriguez, Clerk of the Court.

Certification.

In the city of New Orleans, on the said day, month and year (June 7, 1785), the Escribano went to the public prison of this city to notify Francisco Sanchez of the recharge for imprisonment that was ordered by the foregoing decree, considering that he had been holding Barnabe provisionally, and he said that he held him in his keeping, and he signed, to which the Escribano attests. (Signed) Francisco Sanchez; before Fernando Rodriguez.

Nicolas Fromentin reports his attempt to seize Barnabe's property.

In the city of New Orleans, on the said day, month and year (May 7, 1785), before the Escribano, appeared: Nicolas Fromentin, Deputy Sheriff, and he said he had inquired in this city for Barnabe's dwelling house, and instituted the necessary proceedings to discover his property, and was informed that he had nothing, nor any belongings whatsoever. To which the Escribano attests. (Signed) N. Fromentin; before Fernando Rodriguez, Clerk of the Court.

Decree.

In the city of New Orleans, on June 12, 1785, Renato Huchet De Kernion, Alcalde Ordinario of this city and its jurisdiction for His Majesty, having examined these records, as a result of them, he orders that a sworn declaration be taken from Barnabe, a prisoner in this cause, and that suitable questions and cross-questions be put to him. For this is his decree, thus he has provided, ordered and signed. Fees 5 pesos. (Signed) René Huchet De Kernion; Licenciado Postigo.

The Prisoner's declaration.

In the city of New Orleans, on June 28, 1785, Renato Huchet De Kernion, Junior Alcalde of this city and its jurisdiction for His Majesty, went to the public prison, where he caused to appear before him, a man imprisoned there, from whom His Honor, before the Escribano, received the oath which he made by God, Our Lord, and a Cross, according to law, under charge of which he promised to speak the truth, and the following questions were put to him.

Asked what is his name, where was he born, where does he live, what is his age, state, and occupation? He said his name is Barnabe Serula, he was born in Cartexena de Levante, he is twenty-four years old, a bachelor, and a sailor by occupation.

Asked who made him a prisoner and for what cause? He answered, a Minister of Justice apprehended him, and he is a prisoner on the order of His Honor; he does not know for what cause, but he has heard it said it was because of a blow given one named Tounoir, who said it was a person called Barnabe who struck him.

Questioned, does he know Juan Bautista Tounoir ? He said he had never had any dealings with him, communicated with, nor had he ever spoken to him.

Asked whether he had not been engaged, as a sailor, to go up with him, in the month of April of this year, in company with Carlos Tourangeau, Andres Beauna Ventura, Alexo Tourpeau, Pedro Josef, Juan Cabral, Francisco Casenave, Manuel Suel and Manuel Garry ? He said he did not know any of them.

Questioned whether it was not true that on the first day of May, of this year, they landed about a league from the Iberville Church, where Tounoir made camp with the aforementioned men and the witness, who according to what has been declared, quarreled with him, saying: You say that I do not row well. And that after these disputes, he struck him a blow with the head of an ax, causing him to fall to the ground, and that the witness also had a knife in his hand, and that immediately after, he said to Tounoir: I wish that you would pay me this instant. He said he did not know Tounoir and has no knowledge of what is stated in this passage.

Reminded how can he fail to speak the truth, when the proceedings taken in Pointe Coupée prove what happened, according to the declarations of the aforementioned witnesses, rowers on Tounoir's boat ? He answered that neither Tounoir, nor his rowers, have told the truth; the witnesses has never been in their company. And although questions and cross-questions were put to him concerning the case, he said the same thing, which is the truth, under charge of his oath, and that he is the age he has declared. He did not sign, because he said he did not know how to write. His Honor signed, to which the Escribano attests. (Signed) René Huchet De Kernion; before Fernando Rodriguez.

Decree.

In the city of New Orleans, on June 30, 1785, Renato Huchet De Kernion, Junior Alcalde Ordinario of this city for His Majesty, having examined these records, said: That because guilt results against Bernado (Barnabe) Segala, his confession must be taken and suitable charges and accusations made. For so he decrees, thus he provided, ordered and signed. (Signed) René Huchet De Kernion; Licenciado Postigo; before Fernando Rodriguez.

Confession.

In the city of New Orleans, on June 30, 1785, Renato Huchet De Kernion, Junior Alcalde Ordinario of this city and its jurisdiction for His Majesty, went to the Royal Prison, where he caused to appear before him, Bernave (Barnabe) Zerasola (Serala), a prisoner in this prosecution, from whom His Honor, before the Escribano, received his oath, made by God, Our Lord, and a Sign of the Cross, in conformity to law, under charge of which he promised to speak the truth, whereupon the following questions were put to him.

1st. Q. Does he remember having made a declaration in these proceedings, and does he wish to have it read to him and made a part of his confession ?

A. He said yes. And having read him what runs from page 36 to 37, he said it is the same as he has deposed and that he affirms and ratifies it, because it is the truth, and that he will say the same thing again, whenever it will be necessary.

Q. Reminded, how can he fail to speak the truth, when from the proceedings it appears from the declarations of Carlos Tourangao, translated on pages 19, 20, and 21, and that of Andres Buena Ventura, also translated on pages 21 and 22, and by that of Alexo Tourpeau on pages 22, 23, and 24, and by that of Pedro Josef on pages 24, 25 and 26, by that of Manuel Suel on pages 26 and 27, and that of Juan Cabrero on page 28, and also that of Juan Francisco on pages 29 and 30, and by that of Manuel Garry on pages 30 and 31, and by that of Francisco Casanave on pages 31 and 32, whereby it is proven that he struck Juan Bautista Tounoir on the shoulder with an ax, and threatened him with a knife to force him to pay him, which Tounoir did, and that he made his escape, abandoning the boat?

A. He answered, what has been stated by the aforesaid witnesses is false.

Q. Why does he fail to tell the truth when he must know that laws have been established to furnish those who do not do so?

A. All that he has declared is the truth.

And although other questions were put to him and he was further cross-questioned, he said that he affirmed and did affirm what he has declared, and that he is the age he has already stated, and he did not sign, because he does not know how to write. His Honor signed, to which the Escribano attests. (Signed) René Huchet DeKernion; before Fernando Rodriguez.

Decree.

Send the above to the plaintiff, so that he can draw up the accusation according to his charge. (Signed) De Kernion.

The Accusation.

In the city of New Orleans, on October 20, 1785, Renato Huchet De Kernion, Junior Alcalde of this city and its jurisdiction for His Majesty, caused to appear before him, Bernave Zeresola and Juan Bautista Tounoir, from whom His Honor, in the presence of the Escribano, received the oaths that they took by God, Our Lord, and a Sign of the Cross, in conformity to law, under charge of which they promised to speak the truth, and having made the countercharges to them, His Honor asked Bernave Zerezola whether he knew Juan Bautista Tounoir, here present. He answered that he had never seen him, did not know him, nor had

he ever heard said that there was a Tounoir in the world. To this Tounoir said: How can you say you do not know me, you being the same who took my trunk from Antonio de Fanz' (Fernandez) house, and put it on board the boat, and we made the voyage together until supper at Iberville, where you talked to me, and I wished you to work like the rest. To which you answered: I am not accustomed to eat rice. You are the same who struck me on the shoulder with an ax, and the same one who put yourself on the defense when I advanced towards you, to make you give up the ax, with which you struck me. This you would not do, because I was prostrated from the force of the blow you had given me, also telling me: If you do not pay me this minute, you will see other things, and that with the knife you had in your hand you threatened a sailor who, as soon as he saw me wounded, went to call a Surgeon from the Post of Iberville, and that you did not flee until you were paid, and before leaving you said to one of the sailors, who was near the fire, that I must pay you, which was not done, and I thought you intended to act according to your resolution, and the words you had spoken, that I would see other things, and to prevent myself from being killed with the rest of the crew, I paid you. The accused said he did not know Tounoir, and that what he has stated is false. They both affirmed what they have declared, which is the truth under the charge of the oaths they have taken. Bernave stated that he is the age already mentioned, and Tounoir that he is 42 years old. The latter signed, with His Honor, to which the Escribano attests. (Signed René Huchet De Kernion; J. B. Tounoir; before Fernando Rodriguez.

Decree.

New Orleans, October 20, 1785.

Let the above be sent to the Auditor of War, so that I may consult him. (Signed) De Kernion; before Fernando Rodriguez.

Certified copy of a Procuration.

Juan Bautista Tounoir, a native of Pointe Coupée and a resident of this city, grants his full, ample, and sufficient Power of Attorney to Pedro Bertonière to act in his name and to represent his proper person in all rights and actions that may be required in law, etc.

[Translator's Note: For a full translation of this special form of a Power of Attorney see entry, May 2, 1785, Proceedings brought by Mr. Boisdoré to free a Negro, etc.—L. L. P.]

The Plaintiff petitions for the condemnation of the accused.

Juan Bautista Tounoir duly presents his Procuration granted for the criminal proceedings he has instituted against Barnabe for having attempted to assassinate him, etc., and sets forth that the records of the case have been given to him for ends favorable to the accusation, and reducing them to plain facts, may it please the Court, in merits of justice,

to condemn the abovesaid to the penalties of the law for those so accused, applied to his person, and finances, as a result of the general proceedings which are as follows:

Because all the declarations of the summary from page 5 to 14, inclusive, and translated from page 16 to 33, do not leave any doubt as to Barnabe's evil intention to take Tounoir's life, when two of the witnesses declare, in the foregoing summary, that it was Barnabe who struck him over the kidneys with the head of an ax which he held in his hand, and as a result it was impossible to handle him, and that besides the ax, which he carried, he had a knife in the other hand, with which he prevented the rest of the men, his rowers, from going to his assistance, and that Pedro Joseph placed himself between Tounoir and Barnabe, and the latter raised his knife above his belly, threatening the first one who dared to go near him, as he would kill him, so that with his repeated threats, and asking for his wages, he was obliged to give him a 10 peso note of this Royal Treasury. For all of which and because a crime of this nature should not go unpunished, and should serve as a warning to others who might be tempted to commit the same crime, may it please the Court to determine according to and in conformity to what he has requested at the beginning of this written request. (Signed) Pedro Bertoniére. Guido Dufossat, into whose Court this case has passed, on Juan del Postigo's advice, rules to send this petition to Barnabe.

Declaration.

In the city of New Orleans, on the said day, month and year (March 16, 1786), the Escribano went to the Public Prison of this city to notify Barnabe, personally, of the foregoing decree. He said he had no one to defend him, and prayed His Honor to deliver the records of the case to Antonio Mendez, Procurador del Numero, to who he gives the power, without limitation, as required, so as to end this prosecution. He did not sign, because he said he did not know how to write. To which the Escribano attests. (Signed) Fernando Rodriguez, Clerk of the Court.

Barnabe Serala petitions to have the case dismissed.

Barnabe Serala, through his attorney, answers the suit prosecuted against him by Juan Bautista Tounoir, who has charged him with the crime of having attempted to kill him, together with other accusations which have been set forth in the summary, etc., declares that the records of the case have been delivered to him to answer the charges made against him by the plaintiff, and reducing them to plain facts, may it please the Court to decree that the evidence is vague, and false in what it contains, as he will prove at his opportunity, and condemn him to pay all costs, arrears, prejudices and losses which he has experienced during his unjust imprisonment. This peti-

tion is signed by Antonio Mendez, and directed to Governor Miro, who, on Assessor Postigo's advice, decrees:

Decree.

In the city of New Orleans, on March 29, 1786, Esteban Miro, Colonel of the Royal Armies and Governor of this Province, having examined these records, and the crime that results against Barnabe Serala from them, said that he has taken charge of the case and given the said records to him so that he may allege what is convenient for his defense. Let this cause be received for proof, within nine common days; so that within that time, both parties may present the witnesses of the summary to verify their testimony, and credit given to the declarations of those who are dead, or absent. For this is his decree, thus he has provided and ordered. Fees 3 pesos. (Signed) Esteban Miro; Licenciado Postigo.

Juan B. Tounoir petitions for a publication of the Proofs.

The Plaintiff, through his attorney, in the criminal suit he prosecutes against Barnabe for having attempted to kill him, said that this cause has been received for proof, and as the time has expired, may it please the Court to order a publication of same, and that the records of the case be delivered to him so that he may allege his charge as well proven. The suit reverts to Alcalde Dufossat's Court, who, on Assessor Postigo's advice, rules to send this petition to the defendant.

Barnabe Serala agrees to the Publication.

The defendant sets forth that he has been given a written petition by which a publication of proofs has been requested, and answering same, he prays it may please the Court to grant this plea, because it is just. Guido Dufossat, on Postigo's advice, receives this petition, and later decrees:

Decree.

In the city of New Orleans, on June 7, 1786, Guido Dufossat, Junior Alcade for His Majesty, having examined these records, said: he must order, and does order, the Publication of the Proofs, as requested, and if either of the parties has not observed the legal requirements, the fact must be attested to by certification. By this order, deliver the records to the plaintiff, so that he may allege what will be suitable. For this is his decree, thus he has ordered and signed. Fees 2 pesos. (Signed) Guido Dufossat; Licenciado Postigo.

1st Certification.

The Escribano certifies that the parties have not given proofs; they have only reproduced the allegations for both. New Orleans, June 7, 1786. (Signed) Fernando Rodriguez.

2nd Certification.

The Escribano certifies and attests that the ratification of the witnesses, in the summary, have not been effectuated, as ordered by the decree of March 29, of this year, on which day they re-

ceived them for proof; in consideration of the above, the witnesses cannot be found in this city, nor has the plaintiff presented anyone to credit the testimony of his. New Orleans, June 7, 1785 (1786 ?). (Signed) Fernando Rodriguez.

Juan B. Tounoir petitions to present his
Proofs.

The plaintiff sets forth that this cause has been received for proof, and for the part that he must give, he reproduces the declarations of the summary up to the reverse side of page 14, and his written petition on page 47, together with all the rest favorable to him in the process, and prays it may please the Court to accept these as his proofs and order them filed as such. Governor Miro, on Assessor Postigo's advice, rules: having reproduced the above records, let them be filed as his proof. (Signed) Miro; Postigo.

The Defendant petitions to present his
Proofs.

Barnabe Serala says this cause has been received for proof, and for what he must give, he reproduces his written petition on page 50, all the rest favorable to him in the process, because it is just. Governor Miro, on Juan del Postigo's advice, rules: The above having been reproduced, let them be filed as his proofs.

Juan B. Tounoir petitions to allege his
case as well proven.

The plaintiff sets forth that the records of the case have been delivered to him to allege as well proven, and reducing his charge to plain facts, may it please the Court, in rigorous terms of justice, to condemn the said Barnabe to the penalties he has incurred, in accordance with the records, which are generally favorable to him, and are as follows:

The crime the defendant has committed has been fully proven by all the declarations in the summary, and principally by his declaration on page 36, and his confession on page 38, by which he fully denies the act; but it is a known law that he who denies all, confesses all, and since then no doubt remains but that it was he who attempted to assassinate the plaintiff, and besides, how can the abovesaid acquit himself of his crime, when nine different witnesses declare, in one and the same voice, that it was he who made the attempt, without reason, or cause, therefore, so that in the future Barnabe should serve as warning to others who might be tempted to commit a like offense, may it please the Court to determine as he has requested at the beginning of this written petition, Guido Dufossat, on Juan del Postigo's advice, sends this petition to the defendant.

Barnabe Serala answers, asking to be freed
from the charges.

The defendant states that the allegation drawn up by his opponent has been delivered to him, and answering same, may it please the Court to disregard his reasons and to declare him free of the charges made against him, as he

has stated in his petition on page 50, to which he refers and with which he concludes. Alcalde Dufossat, on Assessor Postigo's advice, rules to send this petition to the Plaintiff.

Juan B. Tounoir answers, asking for the definitive sentence.

The plaintiff answers this petition, saying that in merit of what he has represented and has been made evident from the process, may it please the Court to sentence definitively. Guido Dufossat, on Assessor Postigo's advice, rules to send this petition to the opposition.

Barnabe Serala answers, agreeing to the definitive sentence.

The defendant states that he has been given his opponent's request for the conclusion of this case, and answering same, may it please the Court to sentence definitively, in accordance with the merits of the cause. Guido Dufossat, on Juan del Postigo's advice, receives this petition, and later decrees:

Decree.

Whereas: let these parties be cited for the definitive sentence.

(Signed) Guido Dufossat; Licenciado Postigo.

Juan B. Tounoir petitions to withdraw from the case.

Juan Bautista Tounoir, resident of this city, in the criminal proceedings instituted against one named Barnabe, for having attempted to take his life by striking him on the shoulder with an ax, which act was proven in the summary investigation brought against him, sets forth that he separates himself from the prosecution of the crime of which he has accused the aforesaid, considering that he has been sufficiently punished with the prolonged imprisonment he has already suffered, therefore may it please His Honor to release him from the prison where he is now held. Alcalde Dufossat, on Juan del Postigo's advice, receives this petition, and later decrees:

Decree.

In the city of New Orleans, on August 26, 1786, Guido Dufossat, Alcalde Ordinario of this city for His Majesty, having seen these records, said: Considering that Juan Bautista Tounoir has withdrawn from the accusation brought against Barnabe Serala, and finding informality in the process, namely, in not having ratified the testimony of the witnesses, His Honor declared the aforesaid Barnabe as freed from the said accusation and orders that he be set at liberty from the prison where he is now held, and he condemns Juan Bautista Tounoir to pay the costs of this process which will be taxed by the public taxer. For this is his sentence, definitively judged, thus he has ordered and signed. Fees 11 pesos. (Signed) Guido Dufossat; Licenciado Juan del Postigo.

Notification.

On the same day (August 26, 1786), the Escribano personally notified Jose de Peña, Warden of the Royal Prison. (Signed) Rodriguez.

Notification, acceptance and oath.

In the city of New Orleans, on the said day, month and year (August 26, 1786), the Escribano personally notified Luis Lioteau, Public Taxer, of the foregoing decree, who said he accepted and did accept, and swore by God, Our Lord, and a Sign of the Cross, in conformity to law, to proceed with the taxation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Luis Lioteau. (Rodriguez failed to sign.)

Taxation of Costs.

On August 26, 1786, Luis Lioteau taxes the costs of the case at

127 pesos 5 reales.

May 9.

**Alexandro Bauré vs.
Antonio Ramis.**

No. 3001. 12 pp.

Court of Alcalde René
De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

To abate a nuisance.

This suit to abate a nuisance is interesting for the legal procedure involved, as well as for the information it contains regarding the sanitary regulations in force in New Orleans in Spanish colonial days. The nuisance is ordered abated, but the costs of the suit are levied against both litigants, in unequal portions.

petition sent to the Auditor, and on Postigo's advice, it is sent to the defendant.

Antonio Ramis answers, asking to have the suit dismissed.

Antonio Ramis, resident of this city, petitions according to law, reserving to himself the right to take action, whenever favorable to him, through a Public Attorney, to whom he offers to give his procuration, in case of necessity, answering the ruling sent to him, on Alexandro Bauré's representation, asking to have his water-closet moved four feet from the plaintiff's lot, etc., he, the defendant, avers that this demand is unfounded, because when Mr. Bauré sold him the house, the closet was in the same place it now is and where it has always been, and besides there is not sufficient ground to remove it. Therefore he prays it may please the Court to declare his petition as rash, and condemn him to pay costs caused, or to

Alexandro Bauré sets forth that Antonio Ramis, his next door neighbor's, water-closet is built over the boundary line dividing their properties, and for this reason in his courtyard, so that all the excrement from the said place spills over into his yard and inconveniences him in such a way that he cannot put up with the bad odor which permeates his house. Therefore, for his justification he takes recourse to His Honor, so that in merit of what he has represented, it may please the Court to order the defendant to remove this nuisance and rebuild it in conformity to the usages and customs here, namely: four feet away from the property line. Alcalde René Huchet De Kernion orders this

be caused, and to declare him an unwise and unjust litigant. Alcalde De Kernion, on Assessor Postigo's advice, rules to send this petition to the plaintiff.

Alexandro Bauré answers, insisting on the removal of the closet.

Alexandro Bauré, through Pedro Bertoniére, Public Attorney, in answer to the defendant's petition, states that all his opponent alleges is frivolous, and without foundation, when he says it was the plaintiff who sold him the house where he now lives, and that at the time it was transferred to him the closet was and always has been where it now stands. From this it is evident that Mr. Ramis is very well informed on this particular, namely, that the closet is not located in accordance with the usages that the law requires. And besides, supposing he did not request his opponent to remove it at the time the sale was effectuated, he cannot refuse to comply with legal usages now, even though through pure complacency he has been left undisturbed up to the present, because the plaintiff has not availed himself of his rights. Therefore, may it please the Court to order Mr. Ramis to desist from his unfounded representations and determine in accordance with the demand made in his first petition. René De Kernion, on Assessor Postigo's advice, rules to send this petition to the defendant.

Antonio Ramis answers, again asking to have the case dismissed.

Antonio Ramis, through his attorney, sets forth that his opponent's request for the removal of the closet is the result of pure maliciousness, bad faith and proceedings on a claim that has lapsed. He does not deny that the defendant's courtyard is very small and does not permit him to place it anywhere else. When the one who was the director for the position of the house, built the closet where it now stands, he must have been acquainted with the law the plaintiff cites in his favor, in his libel (although he does not believe that any law speaks of such an indecent matter), then the same annoyance he is supposed to suffer from the close proximity of the two houses, is the same that he might experience from any other private property, and everybody would be liable to prosecution in his favor. He alone is conceded the right to break the law regulating water-closets, and to make use of it when convenient to him. This solicitude on the part of Mr. Bauré is worthy of contempt, because it is without foundation. Therefore, may it please the Court to declare him a litigant whose claim has lapsed, and condemn him to pay costs for his unwise ideas. Alcalde De Kernion, on Assessor Postigo's advice, receives this petition, and later decrees:

Decree

Whereas: Notify Lorenzo Wiltz and Mr. Roquigny to go to Antonio Ramis' house for the purpose of examining whether the water-closet must remain where it is, or be removed to another place, which will be done with the Escribano's assistance. (Signed) René Huchet De Kernion; Licenciado Postigo.

Notification, acceptance and oath.

On the said day (June 27, 1785), the Escribano personally notified Lorenzo Wiltz, who said that he accepted and did accept the appointment made by the foregoing decree, and he swore by God and the Cross, to proceed well and faithfully (with the duties of his charge), and he signed, to which the Escribano attests. (Signed) Lorenzo Wiltz; before Fernando Rodriguez.

2nd Notification.

On the said day, month and year (June 27, 1785), the Escribano personally notified Francisco Roquigny of the foregoing decree, and he said he accepted and did accept, and swore by God and the Cross, to proceed well and faithfully, etc., and he signed, to which the Escribano attests. (Signed) F. Roquigny; before Fernando Rodriguez.

Examination.

In the city of New Orleans, on June 30, 1785, the Escribano, accompanied by Lorenzo Wiltz and Francisco Roquigny, went to Antonio Ramis' house, and upon arriving there the said arbitrators declared that the necessities of Mr. Ramis' house are built over the limits of Mr. Bauré's premises, and upon investigation, they say the closet must be walled in with a brick wall one foot wide and 18 inches high, measuring from the surface of the ground, or removed from its present location to four feet, at least, away from the property line. This decision has been made well and faithfully, under the oath they have taken, and they signed, to which the Escribano attests. (Signed) L. Wiltz; F. Roquigny; before Fernando Rodriguez.

Alexandro Bauré petitions for a taxation of costs.

The plaintiff states that, having prosecuted a suit against Antonio Ramis to cause him to remove and rebuild his water-closet, which has been concluded, therefore he prays for a taxation of costs. Alcalde De Kernion, on Assessor Postigo's advice, receives this petition, and later decrees:

Decree.

Whereas: Let a taxation of the costs be made, and paid, by each one of the parties for whatever he has caused. Fees 4 pesos, to be paid by the two parties.

Notification, acceptance and oath.

On the said day (August 4, 1785), the Escribano personally notified Luis Lioteau, who said he accepted and did accept, and swore by God and the Cross, to proceed well and faithfully with the taxation, and he signed, to which the Escribano attests. Luis Lioteau failed to sign, although Rodriguez did.

Taxation of Costs.

Luis Lioteau taxes costs on August 4, 1785, at 11 pesos $\frac{1}{2}$ real to be paid by Alexandro Bauré, and 9 pesos $2\frac{1}{2}$ reales to be paid by Antonio Ramis.

May 9.

Proceedings instituted by Francisco Joseph Dorgenois to prove his ownership of a house.

No. 3018. 5 pp.

Court of Alcalde
Nicolas Forstall.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This suit, instituted by the owner of a house and lot in New Orleans, which was purchased for him eight years before by a party no longer in Louisiana, to have his title to the said property confirmed, is interesting for the legal procedure involved in such cases. After competent witnesses have testified that the plaintiff is the real owner of the property, it having been purchased for him eight years previously by a person then resident in France, the Court confirms the title of said property in the plaintiff, as its real owner.

the plaintiff, and as such he is now its owner and has possessed it up to the present, that is, for the space of eight years, and done, deliver the certifications to him. Alcalde Forstall rules: Let the present Escribano certify to what is evident upon this transaction, and let Pedro Cowley swear and declare whether what has been stated is true. Entrust the taking of his testimony to the Escribano, and done, deliver it to the plaintiff.

Certification.

In fulfillment of the foregoing decree, the Escribano certifies and attests that Pedro Cowley sold a house, according to the written document mentioned, to Nicolas Lambert, who purchased it with the funds of and for Francisco Joseph Lebreton Dorgenois, which is evident to him because he was an instrumental witness. He has communicated with the said Lambert, absent from this Province and now in the Kingdom of France, who forgot to make the sale to Francisco Le Bretton Dorgenois before leaving, and it fully appears to the Escribano that the house mentioned belongs to the said Dorgenois, considering that he, the Escribano, has lived in it for about a year, and is the one to whom he pays the rent, and that he has actually possessed it since Mr. Lambert bought it, more than eight years ago, without any person ever disturbing him, or bringing suit against him for possession of same. And for purposes that may be convenient, he gives the present in New Orleans, on May 9, 1785. (Signed) Fernando Rodriguez.

Francisco Lebreton Dorgenois sets forth that Nicolas Lambert, late resident of this city, bought a house, in the petitioner's name, facing on Saint Louis Street, measuring 60 feet front by 120 deep, by written instrument passed for Pedro Cowley, before Andres Almonester y Roxas, Notary Public, late of this Province, dated October 10, 1776; and considering that this written instrument was confidential, since he had requested Mr. Lambert to buy the house for him, because of his continued residence in the country, and that all of this is known to the vendor, the present Escribano, and the witnesses to the said instrument, therefore he prays the Court to order the Escribano to certify to what is evident upon this transaction, and that Pedro Cowley testify whether it is not true that he sold the house to Lambert for

Declaration.

In the city of New Orleans, on the said day, month, and year (May 9, 1785), the Escribano, in virtue of the commission conferred upon him, received Pedro Cowley's oath, taken by God, Our Lord, and a Sign of the Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing written petition he said that although in the sale mentioned, made in favor of Nicolas Lambert, he states that he buys the house, it was in reality for Francisco Joseph Le Bretton Dorgenoy, who was absent in the country, and not having granted his power of attorney for the purchase, it was necessary to place the title in Mr. Lambert's name, but that the house actually belongs to Mr. Le Bretton Dorgenoy. This is the truth, under charge of his oath, and he is 32 years of age. He signed, to which the Escribano attests. (Signed) Pedro Cowley; before Fernando Rodriguez.

Francisco Joseph Le Bretton Dorgenoy petitions to be declared the owner of the house.

Mr. Le Bretton Dorgenoy sets forth that, in the proceedings he has instituted to prove his ownership of a house located on St. Louis Street, he made his legitimate ownership to same evident, as may be proven from the foregoing certification and declaration. Therefore he prays the Court to declare him the owner of the said house, and to interpose all its authority and judicial decree, inasmuch as it can and must by law. Alcade Forstall rules to send this petition to the Auditor.

Decree.

In the city of New Orleans, on May 24, 1785, Nicolas Forstall, Senior Alcade of this city and its jurisdiction for His Majesty, having examined the evidence produced for Francisco Joseph Le Bretton, by which it has been proven that the house Nicolas Lambert bought, facing on St. Louis Street, measuring 60 feet front by 120 deep, from Pedro Cowley by written act executed before Andres Almonester y Roxas, on October 10, 1776, His Honor said that he must declare and does declare that the said house belongs to and is the property of the said Le Bretton, and that at no time must he be molested, nor disturbed in its possession, and that for its greater force and validation, His Honor interposes and does interpose his authority and judicial decree. For this is his decision, thus he has provided, ordered and signed. (Signed) Nicolas Forstall; Licenciado Postigo.

May 11.

Proceedings brought by Pedro Bauche and Carlota Gallot, to prove the death of her brother, Luis Gallot.

The record opens with an Interrogatorio consisting of seven questions to be put to Francisco Durel, Francisco Hisnard, Santiago Guenon, and Narciso Broutin, that Pedro Bauche, and his wife, Carlota Gallot, claim to be of value to

No. 2995. 14 pp.

Court of Alcalde René
Huchet De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This proceeding contains some interesting features. A lady and her husband, residents of New Orleans, seek to prove the death of the lady's brother, so as to enable her to collect her paternal property in France. The brother is alleged to have lost his life by shipwreck in the West Indies in 1781. After several competent witnesses have substantiated all the facts alleged by the plaintiffs, decision is rendered in their favor.

met an English Frigate of 32 guns, which fired a shot, and took them to Port Royal, in Jamaica, its Captain, named Aflike?

3rd Q. Is it not true that Francisco Hisnard and Santiago Guenon are Captains of mercantile ships and that they escaped from Port Royal, Jamaica, at the same time, and with Francisco Durel and Narciso Broutin?

4th Q. Is it not true that on July 29, of the same year, Luis Gallot and Juan Lafite left for Cap, in an English Bilander?

5th Q. Is it not true that on the 31st of the said month and year, there came a high wind, like a sort of hurricane?

6th Q. Item, is it not true that on the following August 2, a person named Dominico came to them, who was quartermaster of the crew of the bilander, who brought them the news of the shipwreck of the said bilander, and that he was the only one saved?

7th. Q. Item, is it not true that on the 8th of the current month, Durel, Guenon, Hisnard and Broutin, together with eight English sailors, went to see whether they could find any of the shipwrecked men, and they saw a great number who had been drowned, and they buried them in the sand on the beach, and among them they recognized Luis Gallot and Juan Lafite, very distinctly, as persons with whom they were acquainted. (Signed) P. Boche Saint Martin; Charlotte Gallot St. Martin?

Pedro Bauche petitions to have the foregoing questions answered.

Pedro Bauche, jointly with his wife, Carlota Gallot, and authorized to this effect, present themselves before the Court and say that in order to collect Mrs. Bauche's paternal property in France, it is convenient to their right to receive evidence on the death of Luis Gallot, the lady's

them regarding the death of Luis Gallot, brother of the said Carlota Gallot.

1st Q. Is it not true that Francisco Durel sailed from La Rochelle, in the brigantine, the Postillon, on March 21, 1781, commanded by Captain Luis Gallot, Juan Lafite, his second, and Narciso Broutin, Lieutenant of the said Brigantine?

2nd Q. Item, is it not true that on May 17, of the same year, at 10 o'clock in the morning, in front of Cavo (Cap Francais), at about 2 leagues away from a Fort named Picolet, they were becalmed, and

met an English Frigate of 32 guns, which fired a shot, and took them to Port Royal, in Jamaica, its Captain, named Aflike?

3rd Q. Is it not true that Francisco Hisnard and Santiago Guenon are Captains of mercantile ships and that they escaped from Port Royal, Jamaica, at the same time, and with Francisco Durel and Narciso Broutin?

4th Q. Is it not true that on July 29, of the same year, Luis Gallot and Juan Lafite left for Cap, in an English Bilander?

5th Q. Is it not true that on the 31st of the said month and year, there came a high wind, like a sort of hurricane?

6th Q. Item, is it not true that on the following August 2, a person named Dominico came to them, who was quartermaster of the crew of the bilander, who brought them the news of the shipwreck of the said bilander, and that he was the only one saved?

7th. Q. Item, is it not true that on the 8th of the current month, Durel, Guenon, Hisnard and Broutin, together with eight English sailors, went to see whether they could find any of the shipwrecked men, and they saw a great number who had been drowned, and they buried them in the sand on the beach, and among them they recognized Luis Gallot and Juan Lafite, very distinctly, as persons with whom they were acquainted. (Signed) P. Boche Saint Martin; Charlotte Gallot St. Martin?

Pedro Bauche, jointly with his wife, Carlota Gallot, and authorized to this effect, present themselves before the Court and say that in order to collect Mrs. Bauche's paternal property in France, it is convenient to their right to receive evidence on the death of Luis Gallot, the lady's

brother, by means of the interrogatorio duly filed, and done, that the testimony given in these proceedings, certified to by the Escribano be delivered to them. They pray the Court to order as they have requested. (Signed) P. Boche Saint Martin; Charlotte Gallot Saint Martin.

Alcalde De Kernion rules: The interrogatorio having been presented, let the testimony that this party offers, be received. Entrust the taking of it to the Escribano, and done, deliver the depositions to the petitioners. (Signed) De Kernion; Postigo.

Testimony of the 1st witness.

In the city of New Orleans, on May 11, 1785, Pedro Bauche St. Martin, and Carlota Gallot St. Martin, his wife, for the testimony they have offered to give and that has been ordered given, present as a witness, Francisco Durel, a resident of this city, from whom the Escribano, in virtue of the commission conferred upon him, received the oath, which was made by God, Our Lord, and a Sign of the Cross, under charge of which he promised to speak the truth, and being examined upon the foregoing Interrogatorio, to each one of the questions he answered as follows:

1st A. It is true that the witness sailed from La Rochelle, on the Bringantine, the Postillon, on March 21, 1781, with Captain Luis Gallot, Juan Lafite, second in command and Narciso Broutin, Lieutenant.

2nd A. It is true that on May 17, of the same year, at 10 o'clock in the morning, they ran into a calm, in front of Cap (Francais), at about two leagues away from a Fort named Picolet, where there was an English Frigate of 32 guns; they fired a shot and took them to Port Royal, Jamaica. The Captain was named Aflike.

3rd A. He said it is true that Francisco Hisnard and Santiago Guenon, are Captains of Mercantile ships and that they were in Jamaica at the same time as the witness and Narciso Broutin.

4th A. He answered that it is also true that on July 29, of the said year, Luis Gallot and Juan Lafite left for Cap Francais on an English Bilander.

5th A. It is true that on the 31st of the said month and year, a high wind, like a hurricane, came up.

6th A. It is also true that on August 2nd they talked to one named Dominico, quartermaster of the bilander, who told the witness and Narciso Broutin, that Guenon and Hisnard were in his company, when the said bilander had been shipwrecked, and that he alone was saved.

7th A. He said it is true, and known to him, because he was present with Messrs. Hisnard, Quenon and Broutin Jr., together with eight English sailors, who went to pick up some of the shipwrecked men, but they found them all dead. They recognized

Luis Gallot and Juan Lafite, well and distinctly, as they were intimate friends. This is the truth, under charge of his oath, he is 30 years old, and he signed, to which the Escribano attests. (Signed) Francois Durel; before Fernando Rodriguez.

Testimony of Francisco Hisnard.

In the city of New Orleans, on
May 12, 1785, Pedro Bauche St.

Martin, for the testimony he has offered to give and has been ordered to submit, presents as a witness, Francisco Hisnard, a resident of this city, and Captain of a mercantile ship, from whom the Escribano, in virtue of the commission conferred upon him, received the oath, which he made by God, Our Lord, and a Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the tenor of the interrogatorio, he answered:

1st A. This question is true in all its contents.

2nd A. It is true that on May 7, of the said year, at about 10 o'clock in the morning, in front of Cap, about two leagues away, more or less, facing a Fort called Picolet, they were becalmed. There was an English Frigate of 32 guns in that Port, which fired a shot, took them prisoners, and conducted them to Port Royal, Jamaica. He has heard all the above related by different persons, and that the Captain was named Alfrik.

3rd A. It is true that he, the witness, and Santiago Guenon are Captains of mercantile ships and that when the brigantine was captured, he happened to be in Port Royal, Jamaica.

4th A. It is true that on July 29, of the said year, Luis Gallot and Juan Lafite sailed for Cap on an English bilander.

5th A. This question is true in all its contents.

6th A. The witness was in Jamaica, on August 2nd of the said year, and one named Dominico, the quartermaster of the bilander, came to them and told the witness, and all the others present, that it was wrecked and that the crew were drowned, he, Dominico, having been the only one saved.

7th A. He answered, it is true that Francisco Durel, Santiago Guenon and Narciso Broutin, with 8 English sailors, went out to find some of the shipwrecked men, and on their return they told the witness they had seen many dead on the beach, among them Luis Gallot and Juan Lafite. This is all he knows and can state, and is the truth under his oath; he is 33 years old, and he signed, to which the Escribano attests. (Signed) Francisco Hisnard; before Fernando Rodriguez.

Narciso Broutin testifies.

In the city of New Orleans, on
the said day, month and year,
Pedro Bauche St. Martin, for the testimony he has offered and has been ordered to give, presents as a witness, Narciso Broutin,

from whom the Escribano, in virtue of the commission conferred upon him, received the oath, which he made by God, Our Lord, and a Cross, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing interrogatorio, he said:

1st A. The witness sailed from La Rochelle, on the brigantine, the Postillon, the Captain, Luis Gallot, the second, Juan Lafite, and the witness, the lieutenant, and that Francisco Durel came in the same brigantine.

2nd A. He said it is also true that on May 17, of the same year, at 10 o'clock in the morning, they ran into a calm in front of Cap, a league away from Fort Picolet, where they met an English Frigate of 32 guns, that fired a shot and took them to Port Royal, Jamaica; the Captain was named Aflike.

3rd A. It is true that Francisco Hinard and Santiago Guenon are Captains of mercantile ships and that at that time they were in the Port of Jamaica, with Francisco Durel and the witness.

4th A. It is true that on July 29, of the said year, Luis Gallot and Juan Lafite left for Cap on an English bilander.

5th A. It is also true that on the 31st of the said month and year there was a high wind, like a hurricane.

6th A. He said that on August 2, following, a person named Dominico came to them, who was quartermaster on the bilander, and he brought them news of the shipwreck and told them he was the only one saved.

7th A. He answered, it is true that on the 5th of the current month, Hinard, Guenon and the witness, with 8 English sailors, went to see whether they could find any of the shipwrecked men, and they saw a great number of them who were drowned. These they buried on the beach, and among them they recognized Gallot and Lafite, well and distinctly, as persons they knew. This is the truth, under the oath he has taken, he is 27 years old, and he signed, to which the Escribano attests. (Signed) Narcisso Broutin.

Santiago Guenon testifies.

In the city of New Orleans, on May 13, 1785, Pedro Bauche St. Martin, for the testimony he has offered and has been ordered to give, presents Santiago Guenon, as a witness, from whom the Escribano, in virtue of the commission conferred upon him, received the oath, made by God, Our Lord, and a Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing interrogatorio, to each one of the questions he answered:

1st A. It is true that he sailed from La Rochelle on the brigantine, the Postillon, on March 21, 1781, which was com-

manded by Luis Gallot, as Captain, Juan Lafite, his second, and Narcisso Broutin, as his lieutenant.

2nd A. He answered that on May 17, of the same year, at about 10 o'clock in the morning, they encountered a calm in front of Cap, about two leagues away, more or less, from Fort Picolet, where they were captured by an English Frigate of 32 guns, which was at that Fort, and that the Captain of the said frigate was named Alfrike.

3rd A. He said it is also true that Francisco Hinard and the witness are Captains of mercantile ships and that at that time they were in Port Royal, Jamaica, with Francisco Hinard, Francisco Durel and Narciso Broutin.

4th A. It is true that on July 29th of the said year, Juan Lafite and Luis Gallot left for Cap, on an English bilander.

5th A. It is true that on the 31st of the said month and year, there was a high wind, like a hurricane.

6th A. He answered, it is true that on August 2nd following, a person named Dominico, quartermaster on the bilander, came and told them the bilander was shipwrecked and that he was the only one saved.

7th A. He said that it is true that on the 5th of the current month, Durel, Hinard, Broutin and the witness, with 8 English sailors, went to see whether they could find any of the shipwrecked men. They found the greater part of them, but they were drowned; these they gathered up and buried in the sand on the beach, and among them they recognized Luis Gallot and Juan Lafite, well and distinctly, because they were persons with whom they had traded a great number of times. He answered, this is the truth, under his oath, and that he is 27 years old. He signed, to which the Escribano attests. (Signed) J. Guenon; before Fernando Rodriguez.

Fernando Rodriguez petitions for a taxation of costs.

Fernando Rodriguez, Escribano Publico, states that it is convenient to his right to have the Public Taxer assess the costs of the foregoing proceedings, therefore he prays the Court to order this done. Alcalde De Kernion rules: As it is prayed, after the Taxer has accepted and taken oath.

Notification, acceptation and oath.

On the said day Luis Lioteau was notified, who said he accepted and did accept, and swore by God, Our Lord, and a Cross, according to law, etc., and he signed, to which the Escribano attests. Luis Lioteau does not sign, and although Fernando Rodriguez does, the taxation of costs is omitted.

May 12.

**Luis Chamard vs.
L. Datchurut.**

No. 3005. 12 pp.

Court of Governor
Esteban Miro.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

To collect a debt.

This suit to collect a debt due for property and merchandise affords some interesting information as to the prices prevailing in Louisiana in those days, as well as for the legal procedure in the case.

The first document filed in this record is an exhibit that forms the basis for the suit. It is written in French and reads:

Receipt for the auction sale of Mr. Chamard's effects, namely:

A house adjudicated to Mr. Pratte, entered here 1535 P.

For the same, various movable effects, according to the proces-verbaux 484-10

2019-10

To deduct my commission at 10%. 202

Charges paid } 270-15

Mr. Leclere.... 68-15

1748-15

In pelts at 40 sols per pelt..... 874- 7-6

To deduct namely:

For making up the bundles..... 9 } 30- 5

For freight..... 21- 5

844- 2-6

I will remit the above sum in roebuck skins to Mr. Chamard for Mr. Delaurier. St. Genevieve, November 26, 1784. (Signed) Datchurut.

Written across the back: On the arrival of the pelts mentioned on the other side Mr. Braquier will dispose of same and take for his account 5 escalins on each pound of skins, by receipt and on the product. Mr. Braquier will take for himself 300 piastres that he lent me today, as well as what I owe him besides. New Orleans, January 25, 1785. The cost here above approved. (Signed) L. Chamard.

I have received from Mr. Chamard six packages of skins, which were weighed here..... 577

From which must be deducted..... 505

72 lbs. at 2 piastres, makes..... 36

541

New Orleans, April 23, 1785. (Signed) M. Braquier.

I certify that the said pelts have been bundled up before me and are as hereabove stated. New Orleans, April 28, 1785. (Signed) Delorier.

Luis Chamard petitions for a comparison of signatures.

Luis Chamard sets forth that it is convenient to him to establish his demand, and for this end it will be necessary for the Escribano to compare the signatures to the document, duly presented, with others he has in his Archives, because owing to the absence of the debtor, it is impossible for him to verify them himself. Therefore he prays it may please the Court to order the said comparison made, and done, deliver the declaration to him. Governor Miro, on Assessor Postigo's advice, rules: As it is prayed.

Comparison of signatures.

In fulfillment of the foregoing decree, I certify and attest that having examined the books in the Public Office in my charge, I do not find among the various signatures any of Datchurut's. Those who have been shown the name signed at the end of the account filed on page 1, of these proceedings, say it seems to be in his handwriting. New Orleans, May 12, 1785. (Signed) Fernando Rodriguez.

Luis Chamard petitions to have his debt paid.

The plaintiff alleges that, as may be noted from the proceedings set down by the Escribano, the name signed at the end of the document presented is Mr. Datchurut's, therefore it has been proven that the defendant owes him for 379 pounds of pelts, at the rate of 5 reales a pound, sold to Martin Braquier, as he has accredited on the back of the said document on page 1, making a sum total of 861 pesos 7 reales, for which he prays it may please the Court to order Salomon Mallines, who holds funds in his keepings, belonging to Datchurut, to pay him the stipulated amount, without any deductions whatsoever, considering the abovesaid have already been taken from the funds, and enjoyed by him for nearly three years, to his prejudice and against his will. Esteban Miro, on Juan del Postigo's advice, receives this petition and later decrees:

Decree.

Whereas: Let Salomon Mallines, who has in his keeping funds belonging to Datchurut, pay Luis Chamard the sum of 861 pesos 7 reales, which the said Datchurut owes this party, besides the costs incurred. Fees 2 pesos. Received. (Signed) Esteban Miro; Licenciado Postigo.

Salomón Mallines states he cannot pay the full amount specified.

Salomon Mallines avers that he has been ordered by decree to pay Luis Chamard, as bearer of Mr. Datchurut's notes, the sum of some 800 and odd pesos, and whereas in reality only a small portion of the defendant's effects and merchandise are now in his possession, he having been obliged to sell the rest for his account, at maturity, to Angel Babiny, so as to pay what Datchurut owed Regidor Luis Toutant Beauregard, as ordered by His Lordship's decree, that will be found in Escri-

bano Rafael Perdomo's office. He will promptly deliver what he has to Mr. Chamard, and will do the same to complete the payment whenever he collects from Babiny what he owes Datchurut. Therefore, may it please the Court to order Mr. Chamard to receive the sum now, that is in his possession, and wait for the rest to be collected from what Mr. Babiny owes. Governor Miro, on Assessor Postigo's advice, orders this petition sent to the plaintiff.

Luis Chamard agrees to receive a part payment on his debt.

Luis Chamard answers Mr. Mallines's petition, which was delivered to him, who had been ordered to pay 861 pesos 7 reales from funds he had in his possession, belonging to Datchurut, says he agrees to receive any sum now in Salomon Mallines' keeping, saving to himself the right of recourse against Mr. Datchurut, or whoever else that may be suitable, until the completion of the said sum. Esteban Miro, on Juan del Postigo's advice, receives this petition, and later decrees:

Decree.

Whereas: Let the liquid sum that Salomon Mallines holds in his possession, belonging to Datchurut, be delivered to Luis Chamard, with the right remaining to the latter to take action, without diminution, against anyone he may petition for the remainder the defendant owes him. (Signed) Esteban Miro; Licenciado Postigo.

Note:

Luis Chamard drew up a receipt in favor of Salomon Mallines for the sum of 297 pesos, before the Escribano, dated this day. New Orleans, August 8, 1786.

Fernando Rodriguez prays for a taxation of costs.

Fernando Rodriguez, Clerk of the Court, states that a suit has been prosecuted in His Lordship's Court, by Luis Chamard, against one named Datchurut, to collect a debt, which has been concluded, therefore he prays the Governor to order a taxation of costs to be paid by Salomon Mallines, who holds in his keeping, funds belonging to Datchurut. Governor Miro, on Assessor Postigo's advice, rules: As it is prayed.

Notification, acceptance and oath.

On the said day (August 17, 1786), the Escribano personally notified Luis Lioteau, Public Taxer, of the foregoing decree, and he said he accepted and did accept, and swore to proceed well and faithfully with the taxation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Luis Lioteau.

Taxation of Costs.

May 14.

**Proceedings brought by
Bartolome Toutan(t)
Beauregard to collect the
property of Haywood, ab-
sent in North America.**

No. 89. 12 pp.

Court of Alcalde
Nicolas Forstall.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This proceeding, brought by a mercantile firm of Bordeaux, France, to ascertain whether or not a merchant of New Orleans has in his possession any funds or property belonging to one of their creditors, possesses some interesting features in the legal procedure involved in eliciting the desired information.

to find any property belonging to Mr. Haywood, late a merchant and resident of Bordeaux, so that payment and delivery will not be made to Mr. Hayward, or any other party, until the constituents have been paid what he owes them by obligation granted in their favor, before Ranzan, one of the undersigned Notaries, and his partner, October 22, 1781, and until Mr. Haywood has given the constituents an account of the equipment of the ships, The Governor, The Livingston, and The Marie Ferron, and that he must also be made to pay them what he owes as a remainder of the said accounts, because the Justice, having already heard the constituents, ordered it done. For the above reason all rulings to notify, signify and insert protest have been issued to make Mr. Dematterre, and other bondsmen, responsible for the credits and withholding from the constituents what is due them from Mr. Hayward, and in case Mr. Dematterre, or others should, in the future, make any payments and delivery, in prejudice to the oppositions that will have been made against them, to declare, in the said oppositions, that the constituents do not intend to impede the sale of the effects and merchandise, but to seize the products only, and to prosecute Mr. Dematterre and others against whom the oppositions have been made, and to declare and affirm, under oath, the sums, funds and effects that they will have in their possession at the time of the said opposition, or to make them declare who are the debtors, and in default of making the said affirmations, and as such to condemn them personally to pay all that is owed to the constituents, for this purpose to take any

On August 17, 1786, Luis Lio-
teau taxes costs at 10 pesos 2 reales.

The first entry is a Power of
Attorney, written in French, which
reads:

September 25, 1784. Before the
Counsellors of the King, under-
signed Notaries in Bordeaux, were
present: Jacques Montet, Henry
& Company, merchants and resi-
dents of Bordeaux, Des Behuitiers
Street, Parish of St. Peter, who
have made and constituted Mr.
Barthelemy Toutant Beauregard
their general and special Attorney,
to whom they give the power to
act for them, and in their names,
to make all oppositions against
Mr. Dematterre, a merchant of
New Orleans, or any other mer-
chant of that place, who might
have in their keeping funds, sums
and effects, or who may be able

proceedings to bring suit, appeal, appoint attorneys, revoke procurations and name others, and generally promising, etc., obligating, etc. Done and executed in Bordeaux, September 25, 1784. The constituents signed in the original of these presents that remain in the possession of Ranzan, registered in Bordeaux, September 27, 1784. Received 15 sols, including the 10 sols for issue. (Signed) Arbanere. (Signed) Harira; Ranzan.

We, Pierre Ladoire, Counsellor of the King, and his attorney in the Seneschal and Presidial Seat of Guinne, in the absence of the Lieutenant General and other Officials, certify to all to whom it may concern that Messrs. Hariza and Ranzan, who have signed the foregoing Power of Attorney are Counsellors of the King, Notaries of this city, and that faith and credit must be given to their signatures both in judgment and outside of it. Given in Bordeaux, in our Palace, on September 27, 1784. (Signed) Ladoire.

Certification.

Written in Spanish: Manuel de las Heras, Consul for Spain, in the

Department of Bordeaux.

I certify that Pedro Ladoire, who signed the legalization on the opposite page, is a Counsellor of the King and an Attorney in the Court of Judgment of the Seneschal and Presidial Seat of Guienne, and who exercises the functions of Lieutenant General and other officials in the same Court, in their absence, and that the signature seems to be Ladoire's own, and that the Notaries, Hazera and Ranzan who have drawn up the Power of Attorney, are legitimate, and that entire faith and credit must be given to them in judgment as well as outside of it, and so that this may be evident where convenient, I sign the present in Bordeaux, October 1, 1784. (Signed) Manuel de la Heras. (Seal)

Bartolomy Toutant Beauregard petitions to have the foregoing Procuration translated.

Bartolomy Toutant Beauregard, through his Attorney, Antonio Mendez, states that for ends convenient to him, he prays the Court to order the Procuration conferred upon him by Santiago Montet and his partner, Don Henrique, translated into Spanish by Juan Josef Duforest, Public Translator, and that when said translation is made, it be delivered to him to promote whatever may be in favor of his constituents. Alcalde Forstall rules: As it is prayed, after Mr. Duforest has been notified for his acceptance and oath.

Notification, acceptance and oath.

On the said day (May 14, 1785), the Escribano personally notified Juan Josef Duforest, Public Interpreter, and he said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the translation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Juan Josef Duforest; before Rafael Perdomo. The Spanish translation follows:

The plaintiff petitions to have Mr. Dematterre make a declaration.

The petitioner sets forth that the records of the case have been delivered to him, together with a translation of the Procuration, as requested, and that in accordance with same, he wishes to comply with its contents, therefore he prays the Court to order Felix Dematterre, resident of this city, under oath in due form of law, subject to its penalties, and without delay, to declare what property he has in his possession belonging to Mr. Haywood, and also in what species, and whether he knows of anything in the keeping of anyone else, or of any other property that might belong to the said Haywood, and to state their names and places of residence, this declaration, when made, to be delivered to him to promote whatever may seem suitable. Nicolas Forstall rules: Let Mr. Dematterre swear and declare to the principal of this representation, entrust the taking of his deposition to the Escribano, and done, let it be delivered to the plaintiff.

Declaration.

In the city of New Orleans, on May 24, 1785, the Escribano, pursuant to the foregoing decree, went to Felix Dematterre's dwelling house, where he received his oath, taken by God and the Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing written petition, he said: That at present he has no property in his keeping belonging to William Haywood, except a bill of exchange that Thomas Paterson has drawn against Mr. Gañar, a merchant of Cap Francais, in which the exponent has some interest, relative to the sale of a schooner, named The Two Friends, the witness made to him, in which he is still interested, collection of which has not been effectuated up until today, nor can be affirmatively say what liquid balance belongs to William Haywood, because there are no accounts between them, or others pending, either settled or agreed upon, and that he does not know whether anyone else holds in his possession property belonging to Mr. Haywood. He answered that what he has declared is the truth, under charge of his oath, and that he is 36 years old. He signed, to which the Escribano attests. (Signed) Felix Dematterre; before Rafael Perdomo, Clerk of the Court.

The Plaintiff petitions for a declaration giving the amount of the Bill of Exchange.

Bartolome Toutant Beauregard states that the records of the case, together with Mr. Dematterre's declaration made at his instance, have been delivered to him, and whereas according to same it appears that he holds in his possession a bill of exchange belonging to Mr. Haywood, in which he has an interest, because of the sale of a schooner, The Two Friends, sold to the said Haywood. He prays the Court to order Mr. Dematterre to declare the amount of the bill of exchange, and also the extent of his interest in it, what was the selling price of the schooner, and what part of it belongs to him. This proceeding having been taken, deliver his deposition to the petitioner.

Alcalde Forstall rules: Let Mr. Dematterre swear and declare to the contents of this request. Entrust the taking of his deposition to the Escribano, and done, deliver it to the plaintiff.

Declaration.

In the city of New Orleans, on the said day, month, and year (June 3, 1785), the Escribano, in fulfillment of the foregoing decree, went to Felix Dematterre's dwelling house to receive his declaration, and in virtue of the commission conferred upon him, administered oath, which was made by God and the Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing written petition, he said that the sum total of the bill of exchange was 3000 pesos, the proceeds from the sale of a schooner, which should be paid in Guarico, by Mr. Gañar, a merchant of the said city, but having remitted it for collection, it was neither accepted nor paid by the said Gañar, in virtue of which it was returned to this city, and as appears from the instrument registered on page 1, Thomas Paterson was obligated to pay him for the expenditures occasioned, namely the sum of 579 pesos 3 reales, besides the 3000 pesos, but that Mr. Paterson, having had advice from Mr. Gañar that the bill of exchange would be paid, it was returned to Guarico, but the result was the same as before. For this reason there were added costs, since it was not paid, as already stated. His interest in the schooner amounted to a one-seventh part for its value. He has previously answered all the rest that is set down in the written petition. What he has declared is the truth, under charge of his oath, and he is the age he has stipulated in these proceedings, and he signed, to which the Escribano attests. (Signed) Felix Dematterre; before Rafael Perdomo, Clerk of the Court.

The Plaintiff petitions for a taxation of costs.

On April 24, 1786, Bartolome Toutant Beauregard, through his attorney and as representing Santiago Montet & Company, in the proceedings instituted to discover property belonging to William Haywood, sets forth that he has not been able to bring to light anything belonging to him, notwithstanding the legal action he has taken, therefore he prays the Court to order a taxation of the costs of the case, and he will promptly pay all just and due fees. Alcalde Orue, into whose Court the case has passed, on Postigo's advice, rules: As it is prayed.

[**Translator's Note:** If the taxation of costs was ever made, the Clerk of the Court failed to file it with the records. However, for all practical purposes the case is finished.—L. L. P.]

[**Editor's Note:** The variation in the spelling of the name of one of the Bordeaux notaries ("Harira;" "Hariza;" "Hazera") is an excellent illustration of the difficulties met with in deciphering some of the proper names found in these old documents.—W. P.]

May 16.

**Criminal Proceedings
against Bousigne, because
he was summoned and
failed to appear in Court.**

No. 2989. 10 pp.

Court of Alcalde René
Huchet De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This suit illustrates the procedure involved in bringing into Court a man who wished to evade payment of his wife's debts. The procedure is interesting, although some of the officials held that it was not in conformity with the law as laid down in O'Reilly's ordinance.

Court, and in fact he was brought there, and when he entered the Court Room, it was with an angry countenance, talking impudently, saying he would not pay the debts contracted by his wife, and that they must be presented against him in writing. His Honor warned him to speak with the respect due the Court, and not to scream, or he would impose silence upon him; however, he continued to scream, so His Honor ordered the Minister of Justice to put him in prison. To this Bougigue said to His Honor in words and with threatening gestures that he would repent of this. Alcalde De Kernion, with all possible prudence, reminded him to consider that he was speaking to a Judge, who was in his Court in the actual administration of justice that the King, Our Lord, had confided to him, and that although he told him he would repent of this, it was well understood, that it was a month ago, more or less, that His Honor requested Bousigne to appear in his Court for the purpose mentioned, and that on both occasions he gave as his answer that he was ill, but that the Alcalde had been assured that he came to the city, and that in the country it was only a pretext, so that His Honor would forget the demands placed against him. And considering that it is indispensable to His Honor and a distinct obligation, and he is forced to defend the Royal Jurisdiction he administers, he ordered the two soldiers and the Sheriff to appear and swear and declare to the tenor of this act, and to ask the help of the Governor of this place, to permit the two soldiers to appear. For this His Honor provided, thus he ordered and signed, to which the Escribano attests. (Signed) René Huchet De Kernion; before Fernando Rodriguez.

In the city of New Orleans, on May 16, 1785, Renato Huchet De Kernion, Junior Alcalde Ordinario of this city and its jurisdiction for His Majesty, said: That at 9 o'clock in the morning of this day, he requested one of the Sheriffs to cause a man named Bugigue to appear in his Court to answer a verbal demand made by three persons, for a sum of money owed by his wife, Francisca Her. To this summons he replied that he was ill. His Honor notified him a second time that he must appear, and acting to the contrary, he would be imprisoned. He then answered that no member of the Grenadiers could make him appear if he were ill. In virtue of which His Honor ordered the Sheriff, with the help of two Grenadiers to bring him to his

Decree.

As it is prayed. (Signed) Francisco Bouligny.

Remigio Borel gives his testimony.

In the city of New Orleans, on May 17, 1785, His Honor summoned Remigio Borel, Grenadier of the Fixed Regiment of this Place, to appear and make his declaration, from whom the Alcalde, before the Escribano, received the oath he took by God, Our Lord and a Cross, under charge of which he promised to speak the truth, upon the event and passage of yesterday between His Honor and one named Bugigue, which is as follows: He said that the day before, at about 7 o'clock in the morning, he was called by an ordinary Sheriff to help him, which he did with the permission of Sergeant Olivier, Commander of the Guard. He went with the said Minister, accompanied by another Grenadier, Joseph Girardin, and when they arrived at Mrs. Her's house, the Sheriff having requested Bugigue, who lives there, to come and speak to His Honor, he answered that he was ill; however, he saw him, and he told the Sheriff he would go, and the latter answered the order he carried was to conduct him there, and he was escorted to His Honor's house, who asked him why he resisted coming to his presence, and he answered he did not resist, he was ill. To this the Alcalde demanded why he had not come when he was summoned to pay the debts his wife had contracted. He replied he would not pay his wife's debts, and that the creditors should present their claims in writing. All these words were spoken in arrogance and anger. His Honor requested him to be quiet, and for lack of obedience told the Sheriff to take him to prison, and Bugigue looked at His Honor with anger and told him he would repent of this, and when they conducted him through the streets, he said the Alcalde would see who Bugigue was. This is the truth, under charge of his oath, he is 47 years old, and signed, with His Honor, to which the Escribano attests. (Signed) René Huchet De Kernion; Remis Borel; before Fernando Rodriguez.

Joseph Girardin's declaration.

In the city of New Orleans, on the day, month and year as before, His Honor summoned Joseph Girardin, Grenadier of the Fixed Regiment of Infantry, to appear and give his declaration, from whom, His Honor, before the Escribano, received the oath, which he took by God and the Cross under charge of which he promised to speak the truth upon the event and passage of the day before. He said that at about 7 o'clock in the morning, he was called by the Ordinary Sheriff to help, and that with the permission of Sergeant Olivier, Commander of the Principal Guard, he went with the said Minister, accompanied by another Grenadier, Remigio Borel, and when they arrived at Mrs. Her's house, the Sheriff having requested Bousigue, who lived there, to go speak to His Honor, he answered he was ill, although he saw him, and he told the Sheriff he would go; the latter said

the order he carried was to conduct him there, and he went escorted to His Honor's house, who asked him why he resisted coming to his presence, and he answered he did not resist, that he was ill, which His Honor said if he could walk, he could also come when he was summoned to pay the debts contracted by his wife. To this he replied he would not pay his wife's debts, and that the creditors would have to present their demands in writing. All of these words were spoken with arrogance and anger. The Alcalde requested him to be quiet, and for lack of obedience told the Sheriff to take him to prison. Busigue looked at His Honor with ire and said, you will repent of this act, and in the Street he repeated the same. This is the truth under charge of the oath taken, he is 26 years old, and he did not sign, because he said he did not know how. His Honor signed, to which the Escribano attests. (Signed) René Huchet De Kernion; before Fernando Rodriguez.

Antonio Suya, Sheriff, testifies.

In the city of New Orleans, on the said day, month, and year (May 17, 1785), before His Honor, appeared Antonio Suya, Sheriff of this Court, to give his declaration. Oath was administered, under charge of which he promised to speak the truth, and being examined upon the tenor of the foregoing act, he said that about a month before, His Honor ordered him to request one named Busigue to come to his Court to answer the verbal demands placed against him by several persons, and although he had requested him to come to the Court when he was passing his house, Busigue answered that he was ill, and could not appear. Some days after, he went by His Honor's orders to summon him for a second time, and he gave the same answer, that it was useless, on the part of the Sheriff, to come to look for him, and that even if he came fifty times he would not be in his house, and not to say anything to anyone, and no one would say anything to him. Yesterday, at about 7 o'clock in the morning, a little more or less, he went to Mrs. Her's house, where he saw Bugigue walking in the courtyard; he immediately notified His Honor, who ordered him to appear, and in case of resistance to obtain the help of the Principal Guard, and that, accompanied by two Grenadiers, he went to Bugigue's dwelling house apprehended him and conducted him to His Honor's presence, into which Bugigue entered with much arrogance and in a loud, angry voice, said to His Honor, "Why have you made me appear in your Court, as a criminal," and that he would not pay his wife's debts. His Honor told him to be quiet, because he was in the Court Room, and ordered him placed in prison. Bugigue then answered His Honor, with anger, that there was no resistance to force, and that he would repent of having made him a prisoner, and when he was conducted through the street, he said to the Sheriff, do you know who Bugigue is? This is as much as took place, and is the truth, under the oath he has taken,

he is 30 years of age, and he signed, with His Honor, to which the Escribano attests. (Signed) René Huchet De Kernion; Antonio Suya; before Fernando Rodriguez, Clerk of the Court.

Decree.

New Orleans, May 18, 1785. Go to receive the declaration of Pedro Bugigue, a prisoner in the Royal Prison, and done, bring his deposition to the Court. (Signed) René Huchet De Kernion.

Declaration.

In the city of New Orleans, on May 18, 1785, Renato Huchet De Kernion, Junior Alcalde Ordinario of this city and its jurisdiction for His Majesty, arriving at the Royal Prison, caused to appear before him, a man who is a prisoner there, from whom, before the Escribano, he received his oath, taken by God, Our Lord, and a Cross, according to law, under charge of which he promised to speak the truth, and the following questions were put to him:

1st Q. What is his name, age, state, occupation, where born, where does he live? He answered, his name is Pedro Bougigue, he is 36 years old, was born in Gascoña (Gascony), he is married and lives in this city, and is a merchant by trade.

2nd Q. Why did he refuse to appear in Court the first time he was requested to do so by the Sheriff? He answered, he was ill.

3rd Q. Why did he not come to the Court the second time, when he was summoned by written order? He said it was because he was ill, as he has already stated.

4th Q. What did he wish to say to His Honor, when he told him, on leaving his house, in an angry arrogant voice, that he would repent of having made him a prisoner? He said he remembered nothing of that, and that if, in anger, as it is said, he had hastily spoken any discourteous words, that were without the respect due the Court, it was not expressly to threaten, and if he spoke in temper, or anger, it was due to the annoyance caused that he must be brought before the Court. This is the truth, under charge of his oath, he is the age he has declared, and he signed, to which His Honor and the Escribano attest. (Signed) Pierre Bou-sigue; René Huchet De Kernion; before Fernando Rodriguez.

Decree.

Send these proceedings to the Auditor, so that he may advise me as to what is legal. (Signed) De Kernion.

The Assessor's legal advice.

Whereas: The proceedings drawn up against Pedro Busigue, being sent to me for consultation, I find that the declaration that the aforesaid has made does not conform to the method followed in like cases, nor to Court procedure, for which I am of the opinion that a new declaration should be taken, in accordance with juridical usage, so as to be able to continue the prosecution of the cause. (Signed) Licenciado Postigo.

Decree.

New Orleans, May 23, 1785.

Whereas: From the foregoing consultation placed in continuation of the proceedings instituted against Pedro Bougigue, because of lack of respect due the Court, let the records be returned to the Auditor of War, so that I may consult him upon the order and juridical usage that should be followed in like cases, so as to be able to continue the rest of the proceedings conducent to the conclusion of these. (Signed) De Kernion; before Fernando Rodriguez.

Decree.

The juridical order that should be observed in criminal causes, is thus: In taking the declarations of the defendant, as in the prosecution of the rest of the cause, it has been provided by His Excellency Don Alexandro O'Reilly, in his instructions drawn up (that were approved by His Majesty) for the government of the Courts; this I presume must be known to the Judge and Clerk of this cause, and for this reason I omitted to detail the manner with which it should be prosecuted.

[Translator's Note: The record ends here and may come up again at a later period, drawn up according to Spanish legal procedure.—L. L. P.]

May 18.

Marine Protest.

Proceedings brought by Juan Batalhei to prove that the grounding of the Brigantine, the Young Joseph, under his command was through no fault of his.

No. 73. 61 pp.

Court of the Intendant, Juan Ventura Morales and Martin Navarro.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This proceeding, brought by the master of a vessel to prove that the damage sustained by the ship and cargo under his command, caused by grounding at the mouth of the Mississippi River while coming to New Orleans, was due to no fault or negligence on his part, is interesting for the legal procedure involved. After the witnesses are presented to prove the facts alleged by the master of the ship concerning the cause of the damages, he is absolved of all blame. Upon his petition for permission to have the damages to the vessel repaired, the

The record begins with a declaration, written in French, given by the Captain, Officers, and Crew of a ship, the Jeune Joseph (Joven Josef, or Young Joseph), and reads:

We, the undersigned Captain, Officers, and Crew of the ship, the Jeune Joseph, certify that on April 27, 1785, we were anchored outside of the Mississippi River in 7 fathoms of water, at the Balize, southwest by the compass. At 7 o'clock in the morning, the pilot's launch from the said Balize came alongside of the Brigantine and we let the pilot, named Grillon, after rigging and steering, sail us into the river through the Pass, with the wind to the East, where the Pilot ran us aground on the batture to starboard at the entrance, and was unable to pull us off. We instantly shortened and furled sails, and to incline the ship at the prow to equalize the freight, and to raise the third anchor with

Court names four expert shipwrights to make a thorough examination of the vessel; and after receiving their detailed report of same, the captain is authorized to have the necessary repairs made. The cost of repairs made to the ship is interesting, both for the items listed and the price of each—such as lumber, iron work, naval supplies, and other items used in the repairs; rum, wine, bread, board and laundry for the crew; and the wages paid to skilled and unskilled laborers engaged in repairing the ship.

The proceedings came before the Court of the Intendant, which had jurisdiction over all such maritime and commercial matters in Spanish colonial Louisiana.

a new cable fastened to the prow, we veered to the outside and succeeded in getting close to the anchor without being able to clear from the mud. We cast the stream anchor, with a new stream cable that we tied to it, and when this had been made fast, we raised the third anchor and continued to veer on the stream anchor, the ship having floated, and had fallen upon a point of the said batture that was much firmer, but labored greatly with the poop and prow touching. We fired two cannon shots to ask help, being in great danger and near a ship lately wrecked, belonging to Mr. Toutant Beauregard, who was on an island saving some of the equipment of his boat. He came near us in his launch, without venturing to come alongside, because of the very rough sea. He told us we were in evident danger and that it was necessary for us to save our provisions and merchandise, if possible, then he returned to his vessel, without being able to give us any assistance, and we, ourselves, could not carry an anchor on our launch because of the rough sea, and it was impossible for it to come to the ship. The launch from the Balize, with 12 men and the Commander, came alongside, and with very great labor we succeeded in placing our third anchor in the launch with 120 fathoms of cable extended from the prow. We were forced to veer as much upon this cable as upon the stream cable and managed to float the ship.

During the time the vessel had been aground on the batture it suffered much from the pounding it received. We heard much creaking within the hold of the ship; the rudder was unhung, and raised four feet higher than the deck, the mortise of the iron work broken, from above, and also its bar, and we have seen many pieces of its furring come off, and the ship had taken much water at the time she was on the batture. We also noticed that the water was black and smelt very acid, which made us think some barrels of wine had broken open, caused by pitching of the vessel. After eight hours of continuous labor to land we came to anchor in three and one half fathoms of water, and after putting the cables, anchors and various pieces of cordage in order, we were pleased to go ashore; we worked to remount the rudder, but as the upper iron work was broken, or bent, we were not able to replace it, so we repaired the part that was nailed to the deck, and tied it with a rope on each side to make it more secure. When the ship was floated it had taken very little water, which we thought was because mud had gotten between the seams. We were not willing to expose ourselves to the danger of entering without the help of the launch from the Balize, fearing greater

damages for lack of a rudder which was not in its proper place, and were unable to incline, nor turn her on her keel to examine the iron work below. We asked the Commander from the Balize to help us enter with his launch and crew, and to steer the ship. The following day, the 28th of the current month, we anchored in 10 fathoms of water, with contrary winds, the Balize being to the west of us. We declare the launch suffered much in the manoeuvres taken, reserving to ourselves the right to make a fuller declaration after the examination of the vessel and her cargo. In testimony whereof we have signed the present, to serve in justice when suitable, which we declare to be correct and true. Made in duplicate on board the ship, April 30th, of the aforementioned year. (Signed) Jean Batiste Castaingt; Js. Gouffran Sr.; Pere; (Sign Manuel of the following) Sarrazin, quartermaster; Jean Richard, carpenter; Antoine Salabardaine, cooper; Jean Barreau, sailor; Jean Laforcade, apprentice; Jean Montazeau, sailor; Bartolome Montoran, sailor; Francois Gadreau, apprentice; Pierre Rigaud, apprentice; Jean Plaisse, sailor; Jean Baptiste Casheneau, sailor; Jean Bourdette, sailor; Jean Pierre Garry, apprentice; Jean Batailhey, Captain.

I certify that I have examined the aforementioned ship, grounded, and that it was the fault of the Pilot, who placed her in great danger. (Signed) Bartolome Toutant Beauregard.

Second Declaration.

Also written in French: We the undersigned Captain, Officers, and sailors, of the brigantine Jeune Joseph, on the order of Jean Batailhey, certify that on May 1, 1785, we entered the Mississippi River, and that coming into the Pass we touched without grounding, but on sailing into the river, near Plaquemines turn, on the larboard side, wishing to steer in the middle of the river, the rudder touched bottom and began to break at the first iron joining, causing them to navigate with the sails. We then passed to the starboard side of the river, where we anchored and lashed the ship, and after having placed the two pieces of the rudder on the deck, laid an iron bar on it, nailed three pieces of wood across and tied them, using 90 fathoms of 21 fibre rope, for this repair, and after nailing it and putting it in place, we took advantage of all favorable instants to come up the river, but on the 9th of the month we moored at 12 leagues from the city, on a new 4 inch stream cable, attached to the prow, but a movement of the boat caused this cable to break at 50 fathoms, as well as the part of the foremast, which made us drop down and tie up two leagues below that place, and to use other ropes to prevent the ship from going against the trees that were cut below the level of the water. We managed to stop her, turn and sail up the river to three leagues from the city. We declare the present verbal statement to be correct and true, reserving to ourselves the right to make a more ample declaration on the damages to the vessel, dated the

said month and year as above. Made in duplicate, and signed. (Signed) Jean Baptiste Castaingt; Js. Gouffran Sr.; Sarrarin, quartermaster; Jean Richard, Carpenter; Antoine Salabardaine, cooper; Pere; (Cross marks of) Jean Montazeaux, sailor; Bartolome Monchereau, sailor; Jean B. Casheneau, sailor; Jean Barreau, sailor; P. Plaisse, sailor; Jean Bourdelete, sailor.

Captain Batailhey petitions to have the two foregoing documents translated.

Juan Bataller (Batailhey), Captain and Master of the brigantine, the Young Joseph, anchored at the levee of this river, appears before His Lordship and says, that in order to institute proceedings to prove that the damages to both cargo and vessel during the shipwreck, and that he is about to relate, resulted from several storms and stranding, he prays the Court to cause the Public Interpreter to translate into Spanish the two procesos verbales, that duly accompany this petition, and done, deliver them to him to promote what is necessary. Juan Ventura Morales, on Juan del Postigo's advice, rules: The documents having been presented, let them be translated by Juan Josef Duforest, who must first accept and take oath, and done, deliver them to Captain Batailhey.

Notification, acceptance and oath.

On the said day (May 18, 1785), the Escribano personally notified Juan Josef Duforest, Public Interpreter, and he said that he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the translation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Juan Josef Duforest; before Rafael Perdomo.

Translation.

The translation follows and runs from page 6 to the reverse side

of page 11.

Marine Protest.

The plaintiff now files a certified copy of a Marine Protest, which reads: In the city of New Orleans, at 4 o'clock in the afternoon, of May 15, 1785, before the Escribano and witnesses, appeared Juan Bartallet, Captain of the brigantine, the Joven Josef, known to the Escribano, in which ship he arrived at the levee of this city at 12 o'clock today, and he declared that on April 27 last, he anchored the brigantine in 7 fathoms of water, outside of the Balize of this river, bearing to the south-south-east of the compass. At 7 o'clock in the morning of the said last day the launch from the Balize, with the pilot named Grillon, came alongside to take the vessel into the river, in the direction of which he set sail and steered into the Pass, with the wind from the east, but the said ship ran aground on the shallows (batture) to starboard at the entrance, and seeing that he could not make her navigable, he acted most promptly to change and furl the sails, shifting the necesasry cargo to the prow to equalize the draught of the hull,

but not being able, by this means, to obtain the desired effect, he veered upon the third anchor, with a new cable tied to the prow, and having sounded, fearing to find quicksand, in this way forced to bear on the said anchor, without being able to float the ship, and for this reason he cast out the stream anchor, with a new cable, made taut; he then raised the third anchor, that had been in the water, and continued to veer on the stream anchor, with which proceeding, having warped the boat as far as possible, she fell upon the extremity of the batture, where she was greatly damaged, because she touched bottom from poop to prow with much force. While in this position he fired two cannon shots, to ask help, seeing his ship in such a dangerous predicament, and near one, like his own, which had begun to break up, belonging to Bartolome Toutant Beauregard, of this city and port, who was at that time on a small island, salvaging some of the equipment of his wrecked vessel. He embarked on his launch and approached the Joven Josef, without deciding to come on board because of the heavy sea. He told him that he was in great and evident danger and must do everything possible to save some provisions and merchandise. He returned without being able to give any help, the said head sea prevented the constituent from shifting to extend an anchor with his launch, as he was unable to raise the said anchor without damage to it.

The launch from the Balize having come alongside, fitted out with 12 rowers and the Captain, with great labor succeeded in putting the third anchor, with 120 fathoms of cable in the launch, which was extended from the prow and dropped into deeper water, upon which they veered, also executing the same manoeuvres with the stream cable, succeeded in navigating the ship. During the time they were grounded on the batture, the keel was much broken from the blows received, and as a result, they heard various noises in the hull. The rudder was detached and raised 4 feet above the deck, the upper mortise of the iron work was broken as well as the bar. They saw several pieces of planking floating away on the water, with the ship filling while they were stranded; the said water was very black and smelt of vinegar, which may be inferred to have been caused by the breaking open of several barrels of wine, resulting from the continuous pitching of the vessel while stranded. After all of the abovesaid, having worked for 8 hours without stopping, they floated the Joven Josef, and cast anchor in three and a half fathoms of water. In this place, they put in order and arranged in their places, the cables, anchors and various pieces of rope, that had been used in their labors, but many of them were found broken, or fretted. They attempted to mount the rudder, which they were not able to effectuate, because the lower iron work was bent and nearly broken, and they took the precaution to bind a hawser, or stream cable, to each side of the rudder to make it more secure. Just as

soon as the ship was floated, it was noted that she had taken very little water, which was doubtlessly caused by the mud that had gotten between the seams. They decided not to enter unless they had the help of the launch from the Balize, so as not to expose themselves to greater damages, since it was hopeless to sail because the rudder was out of place, nor was it possible to repair it until the hull would be careened so as to enable them to mend the iron work below. Because of these circumstances, he asked the Commander from the Balize for his launch to help tow and steer them. The following day, April 28th, they anchored in 10 fathoms, but with contrary winds they remained to the west of the Balize.

The first of the current month of May, he succeeded in entering the river, touching in the Pass, without grounding, and from there he sailed up for the city to the Plaquemines turn, where they navigated in the middle of the river for greater security; the rudder accidentally touching, they used a pole to sound for bottom, and the said rudder not moving in the water began to break at the first iron work and became useless, and for this reason they steered as much as possible with the sails, the ship passing to the starboard side of the river anchored and tied up, where they put the two pieces of the rudder on deck, joined and fastened one with the other with an iron bar, nailing three pieces of wood well secured, using for the purpose 90 fathoms of 21 strand rope. After they replaced it as well as they could, they continued to sail up the river, availing themselves of all favorable instants, so that with the greatest speed, they continued until the 9th of April, when they tied up at 12 leagues from the city, using a new 4 inch stream cable attached to the prow. The boat made an unexpected backward movement which broke the stream cable at 50 fathoms from its fastening, together with the sheet of the foremast. Owing to this incident, they moved two leagues, where they moored and used several pieces of rope to avoid going down the river, or damages against the trees that interlocked or that had been cut below the water's edge. In consequence of which and so that no charges may be made against him, at any future time, for the damages to his ship, in the hull, keel, masts, riggings and any other parts, or to the cargo he has brought when he begins to unload, he protests for the first, second, third, and as many times as the law permits, so that in consideration of the aforesaid, the damages and losses will not be for the account and risk of the one protesting, but to the one who may have place in law. In testimony whereof, he protested and signed; the witnesses were Francisco Carcasses, and Manuel Monrroy, residents of this city, here present. (Signed) Juan Bataller; before Rafael Perdomo, Notary Public.

I give this copy, corrected with its original, on the request of this party, on thirteen sheets of common paper, stamped paper

not being in use here. New Orleans, May 18th, 1785. Cross and Flourish. (Signed) Rafael Perdomo, Clerk of the Royal Treasury.

J. B. Batailhey petitions to present witnesses to testify to the truth of his Marine Protest.

Juan Batailhey, in the proceedings he has instituted to prove that the losses and damages caused to the brigantine, the Joven Josef, under his command, as well as the cargo he was bringing, resulted from the grounding suffered at the balize, etc., sets forth that the records of the case have been delivered to him, as requested in his foregoing representation, and so as to prove clearly what has been related in the copy of the Protest, that duly accompanies this petition, may it please His Lordship to receive the testimony of the witnesses he will present, who, under oath and without delay, will declare to the truth of the said Protest, and done, deliver their depositions to him for purposes that may be legal. Juan Ventura Morales, on Juan del Postigo's advice, rules: The Protest having been presented, let the testimony this party offers be admitted, entrust the taking of it to the Escribano, and done, deliver the depositions to the petitioner.

1st Declaration.

In the city of New Orleans, on May 23, 1785, before the Escribano, for the evidence he has offered and has been ordered to give, presented, as a witness, Juan Bautista Castaingt, a Pilot on the brigantine, the Joven Josef, from whom the said Escribano received his oath, made by God and the Cross, according to law, under charge of which he promised to speak the truth, and being examined upon the statements made in the certified copy of the Protest, filed by the said Juan Batailhey, he said that, coming in the said ship, employed as already mentioned, on the 27th of the said month of April last, they arrived at the mouth of the river and anchored in 7 fathoms of water outside of the Balize of the said river, and at 7 o'clock in the morning the launch from same, with the Pilot, came to the side of their vessel to take them into the river; he performed the necessary manoeuvres, however, with bad results, because they grounded on the batture to starboard, at the entrance by the Balize; he worked the ship to make her navigable, but without the desired effect until they veered upon the third anchor, and were placed on the edge of the shallows, where they anchored with the stream anchor attached to a new stream cable, and by this means succeeded in pulling the vessel forward, but she fell back upon the batture at the extreme end where she was greatly damaged upon the very hard bottom. They then fired two cannon shots asking help from a ship, wrecked like themselves, belonging to Bartolome Toutant Beauregard, of this city and port, whose Captain advised them to save some provisions, as he considered them lost, and was not able to give any assistance, as the sea had risen very high, which prevented him from coming alongside of the Joven Josef, although the launch

from the Balize did and with sufficient labor managed to put the third anchor in this launch, together with 120 fathoms of cable, by which they were towed from the Balize; they extended the said anchor from the prow, where they found greater depth, and veering upon it they succeeded in making the vessel float, although she was greatly damaged in the sides, keel, and rudder, but they did not know what injury the cargo had sustained, although it was noted that the pumps drew up water well mixed with wine. On the first day of the current month they entered the river, having touched in the passes, but without grounding. From there they followed their course up to Plaquemines turn, where they sounded with a pole to find the depth, without results. The rudder broke, so they placed the two pieces on deck, which they nailed and tied together with 90 fathoms of 21 fibre rope and put in place, and continued the voyage until they reached a point 12 leagues away from the city, where the vessel was moored with a new 4 inch stream cable which broke at 50 fathoms, from its mooring, together with the sheet of the foremast, and fell back two leagues. He answered that what he has declared is the truth, under charge of his oath, that he is 23 years of age, and he signed, to which the Escribano attests. (Signed) Jean Baptiste Castaingt; before Rafael Perdomo, Notary for the Royal Treasury.

Declarations of the other witnesses.

James Gouffran Sr., Captain of the Brigantine; Sarrazin, quartermaster of the ship; Jean Richard, carpenter; Antoine Salabardine, cooper; Pierre Peré, surgeon; Jean Montareaux, sailor; Bartolome Monchereau, sailor; Jean Baptiste Casheneau, sailor; Jean Barreau, sailor; Pierre Plaisse, sailor; Jean Bourdelet, sailor, each in a separate declaration corroborates the testimony given by the first witness.

Juan Batailhey petitions to appoint experts to examine his ship.

Juan Batailhey sets forth that the records of the case, together with the testimony taken at his instance, as decreed by His Lordship, have been delivered to him, in consequence of which, and for the purpose of inspecting the damages to the hull and keel of his brigantine, to arrive at a true knowledge of them, and the extent of the costs, indispensable to make her seaworthy, may it please the Court to appoint for this examination, with the assistance of the present Escribano, two Captains of Navigation, and two chief master shipwrights and calkers, and done, deliver their report to him for purposes that may be suitable. Martin Navarro, who has returned and taken over the case, on Assessor Postigo's advice, rules: Let Lazaro Estardi, Juan Lacosta, Pedro Visoso and Francisco Anllolin be named for the examination, as requested, to act with the assistance of the Escribano, after they have accepted and taken oath.

Notification, acceptance and oath.

On the said day (June 3, 1785), the Escribano personally notified Juan Lacosta and Lazaro Estardi, Ship Captains, and they said they accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the examination they have been ordered to make, and they signed, to which the Escribano attests. (Signed) J. Lacosta; L. Estardi; before Rafael Perdomo, Clerk of the Royal Treasury.

2nd Notification.

On the same day, the Escribano notified Francisco Anllolin, Master Shipwright, and Pedro Visoso, for caulking, and they said they accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the examination they have been ordered to make, and the one who knows how to write signed, to which the Escribano attests. (Signed) Pedro Visoso; before Rafael Perdomo. (Anllolin does not sign.)

Examination.

In the city of New Orleans, on June 22, 1785, the Escribano, pursuant to the foregoing decree, accompanied by Lazaro Estardi and Juan Lacosta, Ship Captains, named by His Lordship for this proceeding, and Pedro Visoso, master calker, and Francisco Anllolin, carpenter, went on board the brigantine, the Joven Josef, commanded by Juan Batailhey, to make an examination, in conformity to the decree rendered, and after having seen and examined the ship with all the attention the case merited, and in fulfillment of their respective charges, in accordance with the oaths they have taken, they said they found a piece from 15 to 20 feet long, missing from the false keel; they removed a plank from poop to prow to inspect the condition of the gunwale on the inside, and they noticed that the said ship leaked, in the seams, because of the rough treatment of the bottom when she grounded at the entrance to the river; they decided to remove the planking so as to inspect more carefully the damages that may have been done to the inside part of the aforecited planking. This proceeding was then suspended, and they stated that what they have set forth is really true and is what they must declare, according to their legal knowledge and understanding, and they signed, Estardi, Lacosta and Visoso. Anllolin, not knowing how to write, did not sign. (Signed) L. Estardi; J. Lacoste; Pedro Visoso; before Rafael Perdomo.

Juan Batailhey petitions for a second examination of his ship.

Juan Batailhey avers that, in consequence of the experts named by this Court having unanimously decided to examine the interior of the ship more minutely, may it please His Lordship to order them to do so, with the assistance of the present Escribano, since they have stated that the second inspection they proposed to make is indispensable and that they

have removed the furring for this purpose, and done, deliver their report to him to use when necessary. Martin Navarro, on Juan del Postigo's advice, rules: As it is prayed.

2nd Examination

In the city of New Orleans, on July 4, 1785, the Escribano, pursuant to the foregoing decree, in company with Juan Lacoste and Lazaro Estardi, ship captains, Francisco Anyolin (Anlloin), master shipwright, and Pedro Visoso, caulker, went to inspect the interior part of the furring at the bottom of the ship, for which purpose they had removed it from the brigantine, the Joven Josef, which was careened on the levee of this city, and having examined her carefully, in accordance with the duties of their respective charges, and under the sacredness of the oaths they have taken in these proceedings, they declared, before the Escribano, that two knees were broken and will have to be replaced with two new ones; the seams, particularly at the bottom, lack oakum; the rudder is broken and will also have to be replaced with a new one; the launch and its equipment are totally unserviceable as a result of the labor suffered at the Balize to set the ship afloat; and that a new bottom and sides will have to be made so as to put her in a seaworthy state. They say they have made this examination according to the best of their knowledge and understanding, and they signed, Lazaro Estardi, Juan Lacosta, Pedro Visoso. Francisco Anyolin, not knowing how to write, did not sign. (Signed) Pedro Visoso; J. Lacoste; L. Estardi; before Rafael Perdomo.

Juan Batailhey petitions for permission to repair his ship.

Juan Batailhey, in the proceedings he has instituted to prove that the damages and losses to the ship under his command were caused by grounding, etc., petitions in the best form of law, alleging that the records of the case have been delivered to him, together with the reports of the examinations made at his instance, therefore he prays it may please His Lordship to authorize him to proceed with the repairs and careening of his ship to make it seaworthy. Martin Navarro, on Juan del Postigo's advice, receives this petition, and later decrees:

Decree.

In virtue of the examination that has been made, let this party be authorized to careen and repair the ship he commands, as Captain, named the Joven Josef. Fees 2 pesos. (Signed) Martin Navarro; Licenciado Postigo.

Juan Batailhey petitions to have his accounts translated into Spanish.

Juan Batailhey avers that he has been authorized by this Court to careen and repair his ship, and considering that this work has been concluded, he solemnly presents the accounts and vouchers, for all expenses incurred, and prays it may please His Lordship to order them translated into

Spanish and attached to the records of the case, for purposes that may be legal. Intendant Navarro, on Assessor Postigo's advice, rules: The accounting having been presented, let it be translated by Estevan de Quiñones, after he has accepted and taken oath, and done, let his translation be returned to the Court.

Notification, acceptance and oath. On the said day (August 17, 1785), the Escribano personally notified Esteban de Quiñones, who said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the translation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Estevan de Quiñones; before Rafael Perdomo.

Itemized Statement for repairs, etc. Account of expenses and supplies furnished for the careening of the Brigantine, the Jeune Joseph, Jean Batailhey, Captain, and consists of the following, according to the receipts, namely:

1. Paid to Mr. Mamousse, what follows:

N. 1	Ps.	Rs.
3 demijohns of rum.....	12	12

2. Paid to Mr. Douan Casse, the following:

1 barrel of rum		32
-----------------------	--	----

3. Paid to Mr. Gaillard, as follows:

44 pounds of sheet lead.....		11
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4. Paid to Mr. Pedro Buigas, as follows:

45 planks, at 2½ each.....		14- ½
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5. Paid to Mr. Pedro Visoso, as follows:

As chief master, for 36 days labor....	108	
For 30 barrels of tar.....	210	
For 14, the same, pitch and tar.....	56	
For 36, the same, liquid to bream the ship	18	
For 6 undressed sheepskins.....	6	
For 112 pounds of red ochre.....	42	
For the rental of a caldron to heat the tar	10-2	
For 2 other large ones.....	12-4	
For 1 floating stage that served for 37 days, at 1 peso.....	37	
For 3 hawasers and a tackle, at 8 pesos 2 reales	247-4	
For the breaming given the ship.....	8	
For 2 negroes who have worked 40 days, at 2 pesos.....	80	
For 6 iron spikes.....	6	

}

841-2

6. Paid to Mr. Olivares, as follows:		
34 pounds of tallow.....		12-2
7. Paid to Mr. Wackernie, as follows:		
658 loaves of bread at 3 escalins.....	223-7	} 234-7
88, the same, at 1.....	11	
8. Paid to Mr. Dejan, blacksmith, for work done, as follows:		
For a band for the keel, weighing 27 pounds, at 4 reales.....	13-1	} 89-2
For 20 cramp irons and 24 nails for the keel, weighing 34½ pounds.....	16-6	
For 5 spikes weighing 21½ pounds at	10-6	
For 2 bolts weighing 24½ pounds at	12-2	
For 1 band weighing 24, the same....	12	
For the mending of 3 bolts.....	9	
For 2 screws, the same, weighing 6 pounds	3	
For 1 large hammer.....	4	
For 1 heavy hammer.....	3	
For another, medium.....	2	
For the repair of two 6 inch screws..	2	
For 6 grommets and 6 pegs.....	1	
		1246-5½
Amount brought forward.....		1246-5½
9. Paid to Mr. Dematterre for what he has supplied:		
June 11, one barrel of red wine for the officers' table.....	33	} 469-1½
July 2, One, the same, for the crew....	28	
July 16, The same.....	28	
1566 pounds of oakum, at 1 real a pound	195-6	
1 piece of cordage covered with pitch, weighing 474 pounds, at 14 pesos.....	66-2½	
1, the same, weighing 115 pounds, at 14 pesos	16-1	
For Mr. Batailhey's board from June 6 to July 28, making 52 days, at 12 reales a day.....	78	
For the rental of a warehouse to store various effects of the ship during 2 months, at 12 pesos each.....	24	

10. Paid to Messrs. Lioteaud Fabre & Company, carpenters:

599 pounds of nails.....	at	3 escalins	224-5
358 pieces of 2 inch planking	"	10 "	35-61/2
10 pieces, the same, 3 inches	"	1 "	1-2
93 feet of oak.....	"	4 "	46-4
89 1/2 pieces, the same, small	"	2 "	22-3
142 pieces of 6/8 light wooded beams	"	8 "	11-3
21 pieces, the same, 5/6	"	6 "	1-2
52 the same, 4/5.....	"	5 "	2-5
14 planks	"	3 "	5-2
1 keelson, 30 feet long..	"	4 "	15
1 rudder, 25 feet long..	"	8 "	25
15 pieces of cypress....	"	4 "	7-4
200 pounds of paper for lining	"	15 "	30
4439 pieces of plank-ing	"	5 "	221-7 1/2
For 14 1/2 afternoons of negro labor	"	4 "	7-2
29 days use of a float-ing stage	"	8 "	29
18, the same, for a small one	"	4 "	9
18, the same, for 2 capstans	"	8 "	18
Day labor of Negroes:			
Andre 9 3/4 days at 12 escalins.....			14-3
Joseph 11 3/4 " " 12 "			17-5
Jacques 38 1/4 " " 8 "			38-2
Louis 25 " " 8 "			25-6
Gidov 8 1/2 " " 8 "			8-4
Jupiter 25 " " 8 "			25
Rome 4 " " 8 "			4

847-2 1715-7

Continued and brought forward.....		1715-7
Brought forward from the account of Messrs. Lieutaud Fabre & Co.....	847-2	
Day labor of the carpenters who have worked on the careening of the bri- gantine, namely:		
Lauran Dunan 101½ days at		
20 escalins	26-2	
Pierre Angerin 5¾ days at		
20 escalins	14-3	
Cousin 9 days at 20 escalins....	22-4	
Manuel 8 days at 20 escalins..	20-	
Simon Labat 9¾ days at 20		
escalins	23-6	
	263-6	1161
Virginalles 8¼ days at 20		
escalins	20-5	
Francois Camp 7¾ days at		
20 escalins	19-3	
Joseph Estoupan 17¾ days		
at 20 escalins	44-3	
Antoine Plauche 18 days at		
20 escalins	45-	
Richard 11 days at 20 escalins	27-4	
For the days of labor and care that Master Carpenter Joseph has taken during the careening	50	
11. Paid to Mr. Joseph Petely, Com- mander at the Balise, for 2 <i>days use</i> of the launch, with crew, to free the brigantine		14

Provisions for 52 days for the officers, cook, and cabin boy at 1 piastre a day	52	} 205-6
4 Inferior Officers, at 2 escalins each a day, makes 1 piastre daily, for 52 days, equals 1 piastre apiece.....	52	
9 sailors, at 1½ escalins a day, makes 13½ escalins daily, and for 52 days amounts to	87-5	
For 16 trips made by carts to carry different effects for the service for careening, at 2 escalins.....	4	
For washing the table linen during the careening	10	
<hr/>		
For calkers' days of labor for 349½ days during the said careening, at 20 escalins	873-1	}
52 days labor, the same, at 25 escalins	193-6	
<hr/>		
411¼ days labor of calkers, amounts to		1066-7
<hr/>		
Total		4163-4
Paid for cleaning the brigantine after careening		6-
<hr/>		
		4169-4

I certify that the present account is correct and true and amounts to the sum of four thousand one hundred and sixty-nine piastres, four escalins. New Orleans, August 15, 1785. (Signed) J. Batailhey.

This accounting is followed by the Spanish translation of the same, which ends the record.

May 19.

Luis Toutant Beauregard vs. Nicolas Donua (Daunoy).

No. 91. 11 pp.

Court of Governor
Esteban Miro.

Assessor, Juan del Postigo.

Page 1 of this record is a note stipulating that, pursuant to the decree rendered on page 10, the Escribano delivered the note presented on page 1 to Chevalier Regidor Luis Toutant Beuregard, for which he granted a formal receipt. New Orleans, July 1, 1785. by attestation of the Escribano. (Signed) Perdomo.

The second entry, dated May Escribano, Rafael Perdomo. 14, 1785, is a certified copy of a

To collect a debt.

There is nothing unusual in the procedure followed in this suit to collect a debt. After the validity of the debt is established, the matter appears to have been adjusted out of Court, the Costs of the suit being assessed against the plaintiff.

in the suit he has instituted against Nicolas Daunoy, to collect a debt.

The plaintiff petitions to have the defendant verify his note.

Luis Toutant Beauregard, through his attorney, Antonio Mendez, sets forth that it is evident from the note duly presented that Nicolas Daunoy owes him 160 pesos $4\frac{1}{2}$ reales, at date of maturity, and although he has reminded him of his indebtedness, he has not paid the amount specified therefore he prays the Court to order Mr. Dounoy, under oath, according to law, and subject to its penalties, to declare whether the signature to the note is his, and done, deliver his deposition to the petitioner, to promote what is convenient to him. Governor Miro, on Assessor Postigo's advice, decrees: the obligation having been presented, let the defendant swear and declare to its contents, as requested; entrust the taking of his deposition to the Escribano, and done, let it be delivered to the plaintiff.

Notification.

On the said day (May 19, 1785), the Escribano made inquiries at Nicolas Daunoy's dwelling house, so as to notify him of the foregoing decree, and was told by the servants that he had gone to the country. In testimony whereof, he sets this down as a matter of record, to which the Escribano attests. (Signed) Perdomo.

The Plaintiff petitions to say the case has been settled out of Court.

Luis Toutant Beauregard alleges that he has come to an agreement with Mr. Daunoy regarding the collection of a debt, entirely favorable to him, so he prays the Court to order the Escribano to remove the note presented against the defendant and deliver it to him, and that he, the plaintiff, will promptly pay all charges incurred. Esteban Miro, on Juan del Postigo's advice, receives this petition, and later decrees:

Decree.

These parties have compromised their suit. Let the note be removed, and let the costs be paid by Luis Toutant (Beauregard), as he has requested. Assessor's fees 2 pesos. (Signed) Estevan Miro; Postigo.

Receipt.

In the city of New Orleans, on July 1, 1785, before the Escribano, appeared: Luis Toutant (Beauregard), Regidor Perpetuo and Alcalde Mayor Provincial of this city, and he said that, in virtue of the foregoing decree, the present Escribano delivered the note

Power of Attorney, executed before Rafael Perdomo, by which Luis Toutant Beauregard, Regidor Perpetuo and Alcalde Mayor Provincial, appoints Antonio Mendez, Procurador Publico del Numero of this city, to represent his interests against Nicolas Daunoy, to collect

Luis Toutant Beauregard, through his attorney, Antonio Mendez, sets forth that it is

evident from the note duly presented that Nicolas Daunoy owes him 160 pesos $4\frac{1}{2}$ reales, at date of maturity, and although he has reminded him of his indebtedness, he has not paid the amount specified therefore he prays the Court to order Mr. Dounoy, under oath, according to law, and subject to its penalties, to declare whether the signature to the note is his, and done, deliver his deposition to the petitioner, to promote what is convenient to him. Governor Miro, on Assessor Postigo's advice, decrees: the obligation having been presented, let the defendant swear and declare to its contents, as requested; entrust the taking of his deposition to the Escribano, and done, let it be delivered to the plaintiff.

On the said day (May 19, 1785), the Escribano made inquiries at Nicolas Daunoy's dwelling house, so as to notify him of the foregoing decree, and was told by the servants that he had gone to the country. In testimony whereof, he sets this down as a matter of record, to which the Escribano attests. (Signed) Perdomo.

Luis Toutant Beauregard alleges that he has come to an agreement with Mr. Daunoy regarding the

collection of a debt, entirely favorable to him, so he prays the Court to order the Escribano to remove the note presented against the defendant and deliver it to him, and that he, the plaintiff, will promptly pay all charges incurred. Esteban Miro, on Juan del Postigo's advice, receives this petition, and later decrees:

These parties have compromised their suit. Let the note be removed, and let the costs be paid by Luis Toutant (Beauregard), as he has requested. Assessor's fees 2 pesos. (Signed) Estevan Miro; Postigo.

In the city of New Orleans, on July 1, 1785, before the Escribano, appeared: Luis Toutant (Beauregard), Regidor Perpetuo and Alcalde Mayor Provincial of this city, and he said that, in virtue of the foregoing decree, the present Escribano delivered the note

filed on page 1 to him, which he acknowledges to have received and grants a receipt for same that he signed, and to all of the above the Escribano attests. (Signed) Luis Toutant Beauregard; before Rafael Perdomo, Clerk of the Court.

Notification, acceptance and oath.

On the said day, the Escribano personally notified Luis Lioteau, Public Taxer, and he said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the taxation he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Luis Lioteau; before Rafael Perdomo.

Taxation of Costs.

On July 20, 1785, Luis Lioteau taxes the costs of the case at 11 pesos 1½ reales, which were paid by the Plaintiff.

May 21.

Criminal Proceedings officially prosecuted against one named Cheval for having broken open a writing desk and a door of Andres Almonester's house and committed robbery there.

No. 72. 22 pp.

Court of Governor
Esteban Miro.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This suit against a Negro for alleged robbery presents some interesting features. The accused is arrested and imprisoned, and all his effects are seized by the Court. After a thorough investigation of the charges, the Court orders the accused freed of the charges and released from prison; and the costs of the suit are levied against the plaintiff.

inquent, as provided by law, and to prevent others from committing a like crime in the future through lack of punishment, and whatever else that may be suitable for the public cause, he draws up this act to begin the process, and hereby orders some Minister of Justice to arrest the person named Chovas, seize and sequester all of his property, placing him in the public prison, and his property in charge of the General Receiver, and by the tenor of this said act, examine all those who may have knowledge of its context; and when the summary investigation will have been made, with the testimony of a sufficient number of witnesses, drawn up

In the city of New Orleans, on May 21, 1785, Esteban Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim here, said: That now, at about 7 o'clock in the morning, he has been informed by Andres Almonester y Roxas, a resident of this city, that the night before someone has forced, or drilled open, a door on the balcony of his house, and broken into a writing desk in which he keeps various important papers of consequence, and some money in current notes of the Royal Treasury, and from inquiries made among his servants, he justly suspects it might be one named Chovas, who went to his house several times to pass the night with his mulattress slave, Victoria; therefore, in order to proceed with the investigation, so as to discover and punish the de-

in proper form, a suitable decision will be rendered. For thus he has decreed and signed, on the advice of the Auditor, to which the Escribano certifies. (Signed) Esteban Miro; Licenciado Postigo. By Order of His Lordship. (Signed) Rafael Perdomo, Clerk of the Court.

Proceedings for imprisonment.

In the city of New Orleans, on the said day, month and year (May 21, 1785), before the Escribano, appeared Antonio Sulla, Commissioner of this Government, and he said that in virtue of the foregoing act, he went to the house where the said Chovas lived, and took him to the public prison and placed him there, in charge of the Warden. He sets this down as a matter of record, and he signed, to which the Escribano attests. (Signed) Antonio Suya; before Rafael Perdomo.

Proceedings of Seizure.

In the city of New Orleans, on May 23, 1785, the Escribano went to Francisco Chovas' house, accompanied by Joseph Ducros, Regidor Perpetuo and General Receiver, to proceed with the seizure ordered in the foregoing decree, and arriving there they made the

inventory in the following manner:

- Firstly, 4 white handkerchiefs
- 4 pairs of thread stockings
- 2 table napkins
- 1 pair of long trousers
- 1 pair of composition buckles
- 1 inkstand
- 1 whisk broom
- 1 box for powder with its puff
- 1 trunk with a lock

At this stage, because there was no other property to inventory and seize, the proceeding was concluded, to be continued should any other property be found. The foregoing articles were placed in the keeping of Regidor Joseph Ducros, who acknowledged to have received them and drew up a formal receipt for same, to which the Escribano attests. (Signed) Rafael Perdomo.

Declaration.

In the city of New Orleans, on May 25, 1785, Esteban Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim went to his Court Room, accompanied by Juan del Postigo, Auditor of War and Assessor General of this Government, where he caused to appear before him, a mulattress, Victoria, from whom oath was received, before the Escribano, taken by God and the Cross, according to law, under charge of which she promised to speak the truth, and having made the abovesaid oath, as was required, she was questioned, as follows:

Asked, what is her name, where born, where does she live, how employed, and what is her age ? She answered, her name is Victoria, as has been stated, she was born in Mobile, she lives in this city, is employed as a servant in Don Andres Almonester's house, whose slave she is, and she is 30 years old.

Questioned, who arrested her, upon whose orders, what day, and for what cause, or does she surmise the reason ? She answered, her master himself conducted her to prison, on the Governor's order, and she presumes that the reason is because a robbery had been committed in her master's house, and that she was made a prisoner on the twenty-first.

Asked, in what part of the house was she on the night of the 20th current ? She said she went to sleep in the room next to her master's, with two other negresses.

Questioned, what does she know about the robbery committed in her master's house ? She replied that on the 21st, when she got up she found her master's writing desk forced open; she immediately went to Mr. Berducal's room, who accompanied her master, and they examined the desk and found that it had been opened and robbed of its contents.

Questioned, whether anyone had entered the house to sleep, at night ? She said the only person who entered was one named Chovas, who is her husband.

Asked, how he had entered to see her on these nights ? She said, by the door.

Questioned, whether he had entered through another part of the house, on other nights ? She said, on two nights he had entered by a door leading out on the balcony, raising the two hooks that closed it, and for this purpose he had bored holes in each one of them beforehand.

Asked, when she saw him bore the holes did she not question him as to why he did so ? She replied that, having questioned him, he answered that it was to facilitate his entrance when he went to see her.

Questioned, whether on the night of the robbery Chovas had visited her ? She said, no, because they had quarrelled about two weeks before.

Asked, with what instrument he had bored the holes ? She said with an auger.

Questioned, whether she knew by what door they entered on the night of the 20th to commit the robbery ? She said it was by the one with the two holes bored in it, because that was the only one they found open.

Asked, when she saw the holes bored was there any other person there ? She replied, she does not know whether anyone

saw him, from the street, because first he bored from the outside, and then from the inside and that she was the only one present, and that the rest of the servants were in the kitchen and had not been near at night.

Asked, whether she suspected, or presumed, who might have been the thief? She answered, she cannot presume to say who it might have been, but that her master's house is surrounded by different neighbors, of distinct qualities and conditions; and she answered that what she has declared is the truth, under charge of her oath, and that she is the age she has stated. She did not sign, because she said she did not know how. His Lordship and the Auditor both signed, to which the Escribano attests. (Signed) Miro; Postigo; before Rafael Perdomo.

Decree.

Whereas: From what results from the records, take the sworn declaration of the man named Chovas, a prisoner in this cause, and let the questions and cross-questions that may be suitable be put to him.

Chovas' Declaration.

In the city of New Orleans, on May 31, 1785, Estevan Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim here, accompanied by Juan del Postigo, Auditor of War and Assessor General of this Province, together with the Escribano, went to the Prison of this city, and upon arriving there, by means of Francisco Sanchez, the Warden, His Lordship caused the prisoner to appear, from whom the Escribano received the oath, made by God and the Cross, according to law, under charge of which he promised to speak the truth, whereupon the following questions and cross-questions were put to him:

Questioned, what is his name, where born and where does he live, what is his occupation, and how old is he? He said his name is Francisco Josef Chovas, he was born in Brif La Gallar and is a resident of this city; he is a baker by trade, and is 32 years old.

Who arrested him, by whose orders, on what day, for what cause, or whether he surmises the reason? He replied he was arrested by Lieutenant of Militia, Mr. Medeserg, on His Lordship's orders, in the house of Daniel, the Innkeeper, but he does not know the cause, neither does he surmise the reason for it.

Does he know anything about the robbery that took place in Andres Almonester y Roxas' house the night of the 20th of the current month? He answered, he does not know anything about it.

Where did he pass the night of the said 20th, and how was he occupied? He said that he was in the house where he boards, and that he passed it sleeping, as the innkeeper can testify.

Does he know any of the servants at Don Andres Almonester's ? He knows a mulattress belonging to the aforementioned, who is named Victoria.

Asked, whether it was because of acquaintanceship that he went to visit Victoria ? He said it is true that he went to see her at night, at about 7 o'clock in the evening, in a room she occupied behind the kitchen, but when the robbery was committed, upon which he has been questioned, it seems to him that it is about a month and a half since he put his foot in the house, because of a quarrel he had had with the aforesaid.

Asked, whether at any time, either night or day, he had ever gone upstairs to Don Andres Almonester's room ? He answered he had never been in the rooms upstairs.

By what door did he enter when he went to see Victoria ? He said he always entered by the door in the yard, and never by any other.

Was he the one who bored the two auger holes in one of the doors on the balcony, which gives out on the Plaza of Don Andres' house, these two auger holes having been made below the hook of the door ? He did not make the auger holes, and as he has already stated, he never entered the upper part of the house.

Questioned, whether the iron chisel that is before him is his, or in case it is not his, why was it in his chest ? He said it is not his, nor did he have one in his chest; perhaps it might belong to Juan Matelot who put his tools there.

What were the names of the negresses who were in the kitchen on the nights he visited Victoria ? He replied, those he saw there most frequently were the negress, Luison, and her daughters.

When he went to Victoria's room at night, did he see any other negresses of the house ? He said that nearly every night that he went there, he entered the kitchen where the servants were, then he left for Victoria's room, and that when he came back from a voyage that lasted about 15 days, he met Victoria and she told him her master had made her go upstairs to sleep with two other negresses.

At this stage His Lordship ordered this declaration suspended, to be continued whenever convenient. The declarer stated that what he has said is the truth, under charge of his oath, and that he is the age mentioned above. He signed, with His Lordship and the Auditor, to which the Escribano attests. (Signed) Joseph Sauvage (Chovas) ; Miro; Postigo; before Rafael Perdomo.

Decree.

Whereas: Let Antonio Dejan be notified to go to Don Andres Almonester's house, to examine his writing desk that has been broken open; the said Dejan must first accept and take oath, and considering his report, proceed to receive the instructive declarations of the negresses named Janeton, Francisca, Juana, and Juan, the mulatto, all Don Andres' slaves, as well as Daniel Barie and Pedro Miguel, living in the neighborhood, and the above done, let the records be brought to the Court for the decree that corresponds. (Signed) Estevan Miro; Licenciado Postigo.

Notification, acceptation and oath.

On the said day, month and year (June 1, 1785), Antonio Dejan, master locksmith, was personally notified and he said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the examination he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Antoine Dejan; before Rafael Perdomo, Clerk of the Court.

Examination.

In the city of New Orleans, on the same day as the preceding entry, the Escribano, together with Antonio Dejan, master locksmith, went to Andres Almonester's house, to a room where there was a writing desk belonging to him, that had been broken open, which after the said Dejan had examined carefully, in fulfillment of his charge and according to the knowledge of his trade, and under the oath he has taken, he said that the fracture was not made with the instrument that has been shown him, but with a key, or other like turning implement, although he cannot affirmatively surmise with what it had been forced open. This ended the proceeding, which he signed, on the attestation of the Escribano. (Signed) Antoine Dejan; before Rafael Perdomo.

Janeton's Declaration.

In the city of New Orleans, on June 2, 1785, Señor Don Estevan Miro, colonel of the Fixed Regiment of this Place and Governor ad interim of this Province, going to his Court Room, accompanied by Señor Don Juan del Postigo y Balderrama and the present Escribano, ordered to appear before him a negress named Janeton, a resident of this city, and a slave of Andres Almonester y Roxas, a witness cited in this cause, from whom His Lordship, before the Escribano, received the oath she made by God, Our Lord, and a Sign of the Cross, according to law, under charge of which she was questioned upon the tenor of these records, summons were issued on page 9, and having read the proceedings to her word for word, she said it is true that when the one named Sauvage went to see Victoria, she was in the kitchen, and that from there he went to Victoria's room, but she never saw him go upstairs to the rooms occupied by her master, although she had heard Juan, a mulatto, her master's slave, say

he had seen him upstairs one time, and the witness went up there to see whether this was true, but she did not meet him; and what she has stated is the truth, under charge of her oath, and she is 37 years old. She did not sign, because she does not know how. His Lordship and the Auditor signed, to which the Escribano attests. (Signed) Esteban Miro; Licenciado Postigo; before Rafael Perdomo.

Francisca's Declaration.

Immediately after, His Lordship causes to appear before him, a negress, Francisca, Andres Almonster's slave a witness cited in this cause, Governor Miro, before the present Escribano, received the oath she made by God and a Sign of the Cross, according to law, under charge of which she promised to speak the truth, and being questioned upon the tenor of these records, which were read to her word for word, she said it is true that she saw Sauvage go to see Victoria, that he entered by way of the kitchen, and from there to her room, and that she had never seen him go upstairs to the rooms occupied by her master, although she did hear the mulatto, Juan, say he had seen him upstairs one time. What she has declared is the truth, under charge of her oath, and she is 16 years old, and she did not sign because she does not know how to write. His Lordship and the Auditor both signed, to which the Escribano attests. (Signed) Estevan Miro; Postigo; before Rafael Perdomo.

Juana's Declaration.

Immediately after, His Honor caused to appear, Juana, a negress, Andres Almonster's slave, as a witness cited in this prosecution, who took oath before the Escribano, by God and the Cross, according to law, under charge of which she promised to speak the truth, and being questioned upon the tenor of the records that were read to her word for word, she answered it is true that the one called Sauvage went to see Victoria and was in the kitchen, and from there entered her room, but she has never seen him go upstairs to the rooms her master used; and what she has declared is the truth, under the oath taken, and she is 14 years old. She did not sign, because she does not know how. (Signed) Estevan Miro; Postigo; before Rafael Perdomo.

Juan's Declaration.

Immediately after, His Lordship caused Juan, the mulatto, Andres Almonester's slave to appear, who took oath before the Escribano, by God and the Cross, according to law, under charge of which he promised to speak the truth, and he said that he knew Sauvage, and that when he went to see the mulattress, Victoria, he entered the kitchen and from there he afterwards went to her room, but he had never seen him go upstairs to the rooms occupied by his master, and that if he said to the negress, Janeton, one day that perhaps Sauvage was upstairs, it was an opinion he had formed because Victoria had refused to enter a room, into which

her master had ordered her to go, to put up some curtains. What he has stated is the truth, under charge of his oath, and he is 29 years old. He did not sign, since he does not know how to write. His Lordship signed, with the Auditor, to which the Escribano attests. (Signed) Estevan Miro; Postigo; before Rafael Perdomo.

Daniel Barie is examined.

In the city of New Orleans, on June 3, 1785, Señor Don Estevan Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim of the Province, being in his Court Room, with the assistance of Juan del Postigo y Balderrama, Auditor of War and Assessor General of this said Province, caused to appear before him Daniel Barie, a resident of this city, from whom His Lordship, before the Escribano, received the oath made by God, Our Lord, and a Sign of the Cross, in due form of law, under charge of which he promised to speak the truth, and when questioned according, to the tenor of the denunciation filed at the beginning of these proceedings, he said he knew Sauvage because he boards in his house, and has been living there for the past three months; he cannot say whether or not he slept in his house on the night specified, because he went to bed much earlier, and that when Sauvage went to his room, which was usually at 9 o'clock, the two companions who slept in the same room with him opened the door to let him in.

Questioned, who were the companions that slept with the aforementioned? He answered, one is named Pedro and the other Josef, but both are absent.

Asked, whether he knows, or has any information about the robbery committed at Andres Almonester's house? He said he did not have any knowledge of it, nor did he suspect anyone. He stated that this is the truth, under charge of his oath, and that he is 35 years old. He signed, with His Lordship and the Auditor, to which the Escribano attests. (Signed) Estevan Miro; Postigo; Daniel Barie; before Rafael Perdomo.

Pedro Miguel's declaration.

Immediately after, His Lordship caused to appear before him Pedro Miguel, a digger and resident of this city, who took oath before the Escribano, by God and the Cross, according to law, under charge of which he promised to speak the truth, and when questioned upon the tenor of the denunciation that is filed at the beginning of these proceedings, he said he knows Sauvage because he works in the house next to him, and that one morning he went to one of the upper rooms in Andres Almonester's house, that he occupies at present, where he met the said Sauvage at the door communicating with the room he rents from Don Andres. The mulatress, Victoria, was the one who opened this door for him; he saw her there with Sauvage and warned him that he must not take the liberty to go up to his room another time with

Victoria. This happened more than two months ago, and he never saw him there again. What he has said is all that he knows and can declare, under charge of his oath, and he is 40 years old. He did not sign, because he does not know how. His Lordship and the Auditor signed, to which the Escribano attests. (Signed) Estevan Miro; Postigo; before Rafael Perdomo.

Decree.

Considering that from the foregoing declarations and the examination nothing has resulted contrary to what Joseph Sauvage has stated, proceed to the taking of his confession tomorrow, the fourth of the current month, and if anything of merit should come out of it, let the mulattress, Victoria be confronted with Joseph Sauvage, the following day, and done, bring the matter to the Court. (Signed) Estevan Miro; Licenciado Postigo.

Confession.

In the city of New Orleans, on June 4, 1785, Señor Don Esteban Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim here, with the assistance of Juan del Postigo, Auditor of War and Assessor General of the said Province, ordered the confession taken before him from Francisco Josef Sauvage, a prisoner in the Royal Prison, in this cause. Oath was administered by the present Escribano, which was taken by God and a Sign of the Cross, in due form of law under charge of which he promised to speak the truth, in accordance with which he was questioned as follows:

It is true that his name is Francisco Joseph Sauvage, that he is a native of Brif de Gallard, a resident of this city, a baker by trade, aged 32 years, in conformity to what he has declared before His Lordship in his deposition already given, which he asks to have read to him? The Escribano having shown and read it to him word for word, as it appears on page 7 of these proceedings, he said that what is written in this instrument is the same that he declared then, and that he affirms and ratifies it, and if necessary he will state it again now, in this confession, because all of it is true.

How can he deny having gone to an upstairs room at Don Andres Almonester's, when it appears from Victoria's declaration that he entered every night through the door of the rooms on the upper floor? He answered, Victoria does not tell the truth in what she says.

How can he deny the truth, considering the sacredness of the oath he has taken, when by Victoria's declaration it appears that he not only went in through the door, but also by way of the balcony? (No answer is recorded to this question.)

How can he deny having bored two auger holes in one of the doors of the said balcony at Andres Almonester's, when by

Victoria's same declaration it is stated that he went in the afternoon, at about sunset, and made them? He replied that Victoria does not tell the truth in all that she says in her declaration.

How can he deny having been in Andres Almonester's rooms, when by Pedro Miguel's declaration it is evident that he met him one day at the door communicating with the room the said Miguel had rented at Don Andres' house? He said it is true that he had been at the door communicating between the two rooms, and that Victoria opened it to give him some oranges, but this does not prove that he entered the rooms of the said Don Andres; and it is true that Pedro Miguel quarrelled with him.

At this stage His Lordship ordered the declaration suspended, to be continued when suitable. The declarer assured him that what he has said is the truth, under charge of his oath, and that he is the age he has already mentioned, and he signed, with His Lordship and the Auditor, to which the Escribano attests. (Signed) Estevan Miro; Postigo; Joseph Sauvage; before Rafael Perdomo.

Confrontation of the witnesses with the accused.

In the city of New Orleans, on June 6, 1785, Señor Don Estevan Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim of the Province, went to the Public Prison of this city, and with the assistance of Juan del Postigo y Balderrama, Auditor of War and Assessor General of this said Province, caused to appear before him, Victoria, a mulattress slave of Andres Almonester, and Francisco Josef Sauvage, resident of this city, from whom His Lordship, before the Escribano, received their oaths, taken by God, Our Lord, and a Sign of the Cross, in due form of law, under charge of which they promised to speak the truth of what they knew, and the Escribano having read them the statement made by Victoria against Sauvage in her deposition in these proceedings filed on page 4, and what Sauvage said in his declaration on page 8 of these same proceedings, so that they might state again what took place then and affirm the truth of what happened, after the different accusations and words that passed between them.

Victoria said that, although it is true that she set forth in her declaration that Sauvage bored the two auger holes found on one of the doors of the balcony at her master's, and that it was by this door he had entered on two nights, she said this through fear, only, that her owner had imposed upon her, having bound and taken her up to the granary, where he made several threats, and this was when she said that Sauvage had bored the auger holes and entered on the two nights. With this statement Don Andres untied her. That the same fear caused her to declare the same as she had said to her master; notwithstanding the above,

he did not make any threats, nor use any abusive words, and that it is from remorse of conscience that she must say that Sauvage did not bore the auger holes, nor enter as she has declared. The said Sauvage affirmed his deposition and alleged that what he has said is the truth, under the oath he has taken, and he signed. Victoria also affirmed her testimony but did not sign, because she does not know how to write. His Lordship and the Auditor signed, to which the Escribano attests. (Signed) Estevan Miro; Postigo; Joseph Sauvage; before Rafael Perdomo.

Decree.

In the city of New Orleans, on June 7, 1785, Señor Don Estevan Miro, Colonel of the Fixed Regiment of this Place and Governor ad interim of the Province, having examined these records, said that he must declare and does declare that Francisco Joseph Sauvage did not take part in the robbery committed at Don Andres Almonester's house; he acquits him from the prosecution instituted against him, and orders the seizure and sequester raised from his property. Let him be released from prison where he is now held. Victoria must also be liberated, because she was not included in the aforementioned robbery. For this is his decree, thus he has ordered and signed, to which the Escribano attests. (Signed) Estevan Miro; Licenciado Postigo; before Rafael Perdomo.

2nd Decree.

Let a taxation of costs be made by Luis Lioteau and paid by Andres Almonester y Roxas. Fees gratis. (Signed) Miro; Postigo.

[**Translator's Note:** This second decree should have been included in the first and seems to have been inadvertently left out, hence no charge for same.—L. L. P.]

Notification, acceptance and oath.

On the said day (August 4, 1785), the Escribano personally notified Luis Lioteaud of this appointment, and he said that he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the taxation he was ordered to make, and he signed, to which the Escribano attests. (Signed) Luis Lioteau; before Rafael Perdomo, Clerk of the Court.

Note:

The costs have not been paid by the party who was condemned to pay them, and is the reason why the taxation of costs is not filed with this suit, and in testimony whereof, he sets the present down on September 23, 1785. (Signed) Perdomo.

May 21.

Incidents in the Succession of Carlos Julien, brought by Francisco Collell to collect a debt.

The record opens with a promissory note, which reads: I promise to pay Mr. Collell, on the 26th of the month of November, of this year, the sum of 269 piastres, that he has lent to oblige me, and in

No. 139. 6 pp.

Court of Alcalde
Nicolas Forstall.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This suit to collect a debt, evidenced by a mortgage note signed by a deceased person, a free Negro, from his succession, is interesting for the procedure involved. After the validity of the debt has been established, it is declared a privileged claim against the succession, since it is secured by a mortgage on the deceased's house; and it is ordered paid in preference to other obligations against said succession.

order it sold, so that he may be paid from its proceeds.

Decree.

The note having been presented, let it be translated into Spanish, and considering that Carlos Julien did not have a testamentary executor, and that he died intestate, let the present Escribano compare the writing and signature that validates the stated obligation, and done, deliver his report to this party, so that in consequence of which he may promote what is suitable. (Signed) Forstall.

Notification, acceptance and oath.

On the said day (May 21, 1785), the Escribano personally notified Juan Joseph Duforest, and he said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the translation that he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Juan Joseph Duforest; before Rafael Perdomo. The Spanish translation follows.

Comparison of signatures.

In compliance with the foregoing decree, the Escribano, having borne the signature in mind on the note presented on page 1, of Carlos Julien, and also the one at the end of a declaration he has made in the executory proceedings he instituted against a negro named Pedro, after a careful examination, he finds that although there is a difference in the formation of some of the letters to all appearances they seem to have been executed by one and the same person, and in testimony whereof he sets down the present in New Orleans, May 23, 1785. (Signed) Rafael Perdomo.

Francisco Collell petitions for the sale of Carlos Julien's farm.

Francisco Collell alleges that the records of the case have been delivered to him, together with the comparison of the signature on the note of the deceased, made out in his favor, by the Escribano, as well as the translation of same, as His Honor ordered, which prove the debt he has demanded paid

case of my death my house will serve as security for the risk. New Orleans, October 8, 1782. (Signed) Charles, a free negro.

Francisco Collell, Graduated Captain and Lieutenant of the 6th Company of the Regiment of Infantry of Louisiana, presents himself before His Honor and states that Carlos, a free negro, at his death, owed him the sum of 269 pesos, as may be proven from his note included here, and considering that the aforesaid has left a house in this city, he prays the Court to

The note having been presented, let it be translated into Spanish, and considering that Carlos Julien did not have a testamentary executor, and that he died intestate, let the present Escribano compare the writing and signature that validates the stated obligation, and done, deliver his report to this party, so that in consequence of which he may promote what is suitable. (Signed) Forstall.

On the said day (May 21, 1785), the Escribano personally notified

Juan Joseph Duforest, and he said he accepted and did accept, and swore by God and the Cross, according to law, to proceed well and faithfully with the translation that he has been ordered to make, and he signed, to which the Escribano attests. (Signed) Juan Joseph Duforest; before Rafael Perdomo. The Spanish translation follows.

In compliance with the foregoing decree, the Escribano, having borne the signature in mind on the note presented on page 1, of Carlos Julien, and also the one at the end of a declaration he has made in the executory proceedings he instituted against a negro named Pedro, after a careful examination, he finds that although there is a difference in the formation of some of the letters to all appearances they seem to have been executed by one and the same person, and in testimony whereof he sets down the present in New Orleans, May 23, 1785. (Signed) Rafael Perdomo.

Francisco Collell alleges that the records of the case have been delivered to him, together with the comparison of the signature on the note of the deceased, made out in his favor, by the Escribano, as well as the translation of same, as His Honor ordered, which prove the debt he has demanded paid

to be lawful, and also that he is a preferred creditor, above all others in the said succession, as may be verified by the note for the security of which he has mortgaged a house, his sole possession. With this conception the farm was cried for sale in accordance with the terms of law, and the latter having been done, he prays it may please the Court to assign a day for the auction, and in view of what he has set forth, order the sum he claims paid from its product. Alcalde Forstall rules: Let the present Escribano send these proceedings to the Auditor, so that he may consult him as to what is lawful.

Decree.

Whereas: Let the following day, the 2nd of the current month, be assigned as the day for holding the auction of the house belonging to the late Carlos Julien, a free negro. Notify the plaintiff, and from its product pay him the sum of 269 pesos that appear to be due him. Assessor's fees 2 pesos. (Signed) Nicolas Forstall; Licenciado Postigo. The record ends here.

May 23.

**Luis Lalande D'Aprémond
vs. Pedro Miraval.**

No. 3063. 248 pp.

Court of Alcalde René
Huchet De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

To collect a debt.

This lengthy and intricate suit will be
presented in full at a later date.
time.

May 28.

**Pedro Camas vs.
Mr. Maraffret.**

No. 3013. 8 pp.

Court of Alcalde René
Huchet De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This is a long intricate lawsuit to collect 6000 pesos, due on a mortgage on the defendant's one-half interest in 6½ lots of ground, including several buildings, the most important of which is a tannery, together with his one-half interest in 9 negro slaves. He binds himself not to sell nor alienate any of the above named property until this obligation will have been paid. The plaintiff's attempt to collect his money necessitates much litigation, and brings into the Court, as exhibits, some very interesting French Colonial book-keeping. This case will be entered as a special feature at some future

Pedro Camus, through his attorney, Pedro Bertonière, avers that, as may be proven from the note duly presented (not filed with the record), the defendant owes him 200 pesos, and although he has requested him several times to pay this debt, he has not done so. Therefore, he prays His Honor to order the abovesaid, under oath in due form of law, subject to its penalties and without delay, to acknowledge, swear and declare whether the signature at the end

To collect a debt.

This suit to collect a debt due on a note, follows the usual procedure in such cases. After a Writ of Seizure to satisfy the debt was issued by the Court, the matter appears to have been settled out of Court.

as stated, let the defendant swear and declare to its contents, as requested; entrust the taking of the deposition to the Escribano, and done, deliver it to him.

Pedro Camus petitions for a Writ of Citation.

under oath, and whereas he resides on his plantation, the Clerk of the Court has not been able to notify him of the proceedings brought against him, therefore he prays Alcalde Forstall to order a Writ of Citation issued against him, and to entrust the service of same to any competent person. René Huchet De Kernion, on Juan del Postigo's advice, rules: As it is prayed.

Service of the Writ.

In the city of New Orleans, on May 30, 1785, before the Escribano, appeared Nicolas Fromentin, Deputy Sheriff, and he said that in virtue of the foregoing decree, he notified Mr. Marafre to come to the present Escribano's Office to be informed of this decree. The defendant was on his plantation, four leagues away from the city. The Deputy Sheriff asked to have this set down as a matter of record, and he signed, to which the Escribano attests. (Signed) N. Fromentin; before Fernando Rodriguez.

The Plaintiff again petitions to have the defendant summoned.

Pedro Camus states that, although Nicolas Marafre has been notified by the Deputy Sheriff to appear in the Escribano's Office to give a declaration, he has not done so. Therefore, he prays it may please His Honor to order the Deputy Sheriff, accompanied by two soldiers, to cause him to appear in Court, so that by this means a declaration may be obtained from him. Alcalde De Kernion, on Assessor Postigo's advice, rules: As it is prayed.

Nicolas Maraffret's declaration.

In the city of New Orleans, on the said day, month, and year (August 1, 1785), the Escribano, in virtue of the commission conferred upon him, received Nicolas Maraffret Lesar's oath, which he took by God, Our Lord, and a Cross, according to law, under charge of which he promised to speak the truth; the note presented on page 1 was placed on manifest, and he said that the signature at the end of it is his, and the one he is accustomed to make, and as such he acknowledges it, and that it is true he owes the amount stipulated therein. This is the truth, under charge of his oath, and he is 28 years of age. He signed, to which the Escribano attests. (Signed) Maraffret; before Fernando Rodriguez.

of the note is his, and whether he owes the amount specified, and done, deliver his deposition to the plaintiff to be used to enforce his rights. Alcalde De Kernion rules: The note having been presented,

The Plaintiff alleges that Mr. (Nicolas) Maraflet has been ordered to acknowledge his debt,

Pedro Camus petitions for a Writ of Execution.

The plaintiff sets forth that, as may be noted from the defendant's declaration, he owes the sum of 200 pesos, in consideration of which, and by executory merits that result in his favor, may it please the Court to order a Writ of Seizure issued against the person and estate of the abovesaid, sufficient to pay the debt, its one-tenth and costs, and he swears by God, Our Lord, and a Sign of the Cross, in conformity to law, that the said sum is due him and has not been paid. Alcalde De Kernion, on Assessor Postigo's advice, receives this petition, and later decrees:

Decree.

In the city of New Orleans, on August 17, 1785, Renato Huchet De Kernion, Junior Alcalde of this city for His Majesty, having examined these records, said that he must order and does order issued a Writ of Seizure against the person and estate of Mr. Galefre (Maraffre) for the sum of 200 pesos, its one-tenth and costs, caused or that may be caused, up to the real and effective payment. For this His Honor decreed, so he has ordered and signed. Fees 2 pesos. (Signed) René Huchet De Kernion; Licenciado Postigo; before Fernando Rodriguez.

[**Translator's Note:** The record ends here. The debt was probably paid out of Court and the note returned to the maker.—L. L. P.]

May 28.

**Baltran Lasaue vs.
Mr. Gabriel (Gravier).**

No. 3055. 4 pp.

Court of Alcalde
René De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

To collect a debt.

This suit to collect a debt due by a man who is alleged to be about to leave the colony, follows the usual procedure. After a Writ of Execution was issued against the defendant's property to satisfy the debt, the record ends, leaving the case incomplete.

Beltran Lasaue, through his attorney, Pedro Bertoniére, alleges it may be noted from the bill duly presented (not filed with the record) that Mr. Gravier owes him a remainder of 567 pesos 3½ reales, and whereas he has reminded him of his indebtedness several times, he has not been able to collect his money, therefore he prays the Court to order him, under oath in due form of law, subject to its penalties and without delay, to declare whether he owes the amount specified, and done, deliver his deposition to the plaintiff.

In a secondary petition, the plaintiff states that, considering the defendant is just about to absent himself from this Province, he prays the Court to order that he must not leave until this debt is paid, requesting for this

purpose the help of the Governor General. Alcalde De Kernion orders this petition sent to the Auditor.

Decree.

In the principal petition, the bill having been presented, let the defendant swear and declare to its contents, as requested, entrust the taking of his depositions to the Escribano, and done, let it be delivered to the plaintiff. And whereas, in the secondary petition, ask the help of the Governor, and this decree will serve the purpose of a courteous message. (Signed) René Huchet De Kernion; Postigo.

Declaration.

In the city of New Orleans, on the said day, month and year (May 28, 1785), the Escribano, in virtue of the commission conferred upon him, received Juan Gravier's oath, taken by God, Our Lord, and a Sign of the Cross, according to law, under charge of which he promised to speak the truth, and placing the bill on manifest, filed on page 1, he said it is true that he owes the amount specified therein. He declared that this is the truth, under charge of his oath, and that he is 34 years of age, and he signed, to which the Escribano attests. (Signed) Jn. Gravier. (The Escribano does not sign.)

Beltran Lasaupe petitions for a Writ of Execution.

The Plaintiff sets forth that, as may be noted from Juan Gravier's declaration, he owes him 567 pesos 31½ reales, in consideration of which, and because of the executory merits that result in his favor, he prays the Court to order a Writ of Execution issued against all or any of the defendant's property, sufficient to pay the said sum, its one-tenth and costs, and he swears by God, Our Lord, and a Sign of the Cross, in conformity to law, that the said debt is due and has not been paid. Alcalde De Kernion, on Assessors Postigo's advice, receives this petition, and later decrees:

Decree.

In the city of New Orleans, on June 3, 1785, Renato Huchet De Kernion, Alcalde Ordinario of this city for His Majesty, having examined these records, said that he must order and does order a Writ of Execution issued against the person and estate of Mr. Gabrier (Gravier) for the sum of 567 pesos 31½ reales, its one-tenth and costs, caused or that may be caused, up to the real and effective payment. For this is his decree, thus he has ordered and signed. Fees 12 reales. Licenciado Postigo alone signs.

[Translator's Note: The record ends here and is therefore unfinished.—L. L. P.]

May 28.

**Pedro Marchan(d) vs.
Antonio Colona
(Decalogue).**

To have a nuisance removed.

No. 3088. 5 pp.

Court of Alcalde
René De Kernion.

Assessor, Juan del Postigo.

Escribano, Fernando
Rodriguez.

This suit to abate a nuisance is similar to the one summarized above under date of May 9, 1785. However, the proceedings presented here are only a fragment, the records of the case being incomplete.

Notification.

(May-28, 1785), the Escribano looked for Antonio de Calogne in various parts of the city, to notify him of the foregoing decree, and was told by many persons that he lived on his plantation, and in testimony whereof he sets this down as a matter of record.

The Plaintiff petitions for a Writ of Citation.

and its ruling sent to the defendant. It has been impossible however, to notify him of the said ruling because he lives on his plantation, as may be proven from the proceedings set down by the present Escribano, therefore he prays the Alcalde to issue a Writ of Citation causing the aforesaid to appear, and to entrust the service of same to any competent person. René Huchet De Kernion, on Assessor Postigo's advice rules: As it is prayed; entrust its service to any competent person.

Marginal Note.

A misplaced marginal note specifies that the Writ of Citation was issued and delivered to the Deputy Sheriff.

Order for the Writ.

By decree rendered by Renato De Kernion, this Writ will be served by any Minister of Justice, to summon the defendant to appear and be notified of a certain decree. New Orleans, July 12, 1785. (Signed) Fernando Rodriguez, Clerk of the Court.

Service of the Writ.

In the city of New Orleans, on July 16, 1785, before the Escribano, appeared Nicolas Fromentin, Deputy Sheriff, and he said

Pedro Marchand alleges that his neighbor, Antonio Decalogue's, water-closet is built on his lot, which is out of the regular order ordinarily established for such places, and it inconveniences him to such an extent that it is impossible for him to continue living in his house, therefore he prays the Court to decree that the defendant remove it from the place where it is now located, and erect it on his own lot, in conformity to what has always been the custom in this Province. Alcalde De Kernion orders this petition sent to the Auditor for his legal advice, and upon the receipt of which it is sent to the defendant.

An unsigned notification reads: On the said day, month and year

Pedro Marchand, through his attorney, Pedro Bertoniére, states that the Court ordered his petition

that he went to Antonio De Calogne's plantation, one league away from the city, upper river, to notify him of the contents of the Writ, and having notified him of same, he told the Deputy Sheriff that he would go to the city immediately. In testimony whereof, he sets this down as a matter of record, to which the Escribano attests. (Signed) N. Fromentin. (Rodriguez does not sign.)

Writ filed a second time.

By decree issued by Renato Huchet De Kernion, Junior Alcalde of this city, the Deputy Sheriff is ordered to cause Mr. Caloña (De Calogne) to appear in the Escribano's Office, so as to be notified of this decree. New Orleans, August 1, 1785. (Signed) Fernando Rodriguez, Clerk of the Court.

Report of the service of the Writ repeated.

In the city of New Orleans, on the said day, month and year (August 1, 1785), Nicolas Fromentin, Deputy Sheriff, appeared before the Escribano and said that, in virtue of the Writ of Citation, he requested Mr. De Calogne, who lives one league from the city, upper river, to come to New Orleans, and he said that he would go down to the city immediately, and in testimony whereof he sets this down as a matter of record, to which the Escribano attests. (Signed) N. Fromentin. (The Escribano does not sign.)

[Translator's Note: This record is incomplete and badly put together. The Clerk of the Court fails to sign the necessary entries, such as the certifications to the rulings, decrees and notifications, etc. In fact, his signature appears twice, only, and that is for the first and second certifications of the Writ of Citation he entrusted to the Deputy Sheriff for service.—L. L. P.]

(To be continued.)

INDEX

THE LOUISIANA HISTORICAL QUARTERLY VOLUME XXVIII

- ABORN, JOSEPH, sketch, 822n; noted, 823, 845n; letters of, 899, 905-906, 910.
- Adams, T. Scott, pres. Farmers' Alliance, cand. for gov., 1152; opposition to as cand. for gov., 1154-55, 1156; withdrawal, 1157; nom. sec. of state, 1158; noted, 1162, 1171.
- Albrecht, Andrew C., "The Origin and Early Settlement of Baton Rouge, La.," 5-68.
- Alligator Bayou (Creek), 779, 780.
- American Co., under Caldwell, 91, 95, 103, 105, 106 ff., 114 ff.; under Russell and Rowe, 186 ff.
- "The American Siddons," by John Smith Kendall, 922-40.
- American Theatre, St. Philip St., 105-10; Orleans St., 110-13, 114-20; Camp St., description, 121-22, 144-45; 1824-1833, pp. 121-86; repairs to, 154; Caldwell ends management of Camp St. Theatre, Russell and Rowe take over, 186; seasons 1833-36, pp. 186-204; 1836-37, pp. 212-18; 1837-38, pp. 224-29; Barrett assumes direction, 235; season 1838-39, pp. 235-40; 1839-40, pp. 245-47, 251-52; on Magazine St., 252; Poydras St., 1840-41, pp. 257-63; description, 257-58; season 1841-42, pp. 269-74; destroyed by fire, 1842, p. 274; Mrs. Duff appeared in, 927-33.
- American Theatrical Commonwealth Co., in N. O., 96 ff.
- Anderson, T. C., and election 1872, p. 1134.
- Annual Chronological Records of the Eng. Theatre at N. O., 1806-1842, pp. 361-490.
- Anti-Lottery League, formation of, 1150-51; combined with Farmers' Alliance, 1152 ff.
- Antoine, Arthur, Negro Rep. from St. Mary, 1136.
- Antoine, C. C., and election of 1872, p. 1134; cand. for lt.-gov., 1876, p. 1138.
- Arcade Theatre, 251.
- Arkansas Post, 688, 690, 691.
- Arroyo Hondo, and the disputed neutral ground between Tex. and La., 1023-1103, *passim*.
- Aswell, James B., pres. Normal, Ind. cand. for gov., 1222-23; accusations against, 1227-28.
- Atchafalaya Bay, 797, 800, 810.
- Atchafalaya River, 297, 739, 754, 758, 761, 781, 785, 793, 796, 799, 808, 829, 838 ff., 888, 1129.
- Athenaeum Theatre, temporarily used by Caldwell, 1842, p. 274.
- "Attakapas Steam Co.," 823n.
- Aucoin, Sidney Joseph, "The Political Career of Isaac Johnson, Gov. of La., 1846-1850," pp. 941-89.
- Austin, J. E., on DeFeret Returning Board, 1135.
- BAEL, FRANCISCO, trader sent to Indians, 1099.
- Bailey, J. W., Populist House leader, 1183.
- Baker, Joshua, authorized to clean out Bayou Pigeon and Grand River, 298; sketch, 763n.; noted, 818n.
- Balize, 684, 686, 747, 748, 768, 883 ff.
- Baonavía y Zapata, Don Bernardo, comdt. of armies, Sp. council held to discuss Indian trade, 1088.
- Baratarian pirates, part played in Battle of N. O., 730-31.
- Barr, Agnes Gibson, claim *vs.* Davenport for Barr property, 1090-92, 1095.
- Barr, Wm., organized trading firm, 1089; mother claims property of, 1090-91, 1095; sketch, 1091-92; activities of House of Barr and Davenport, 1096 ff.; Sp. attitude toward, 1101-1102; death, 1103.
- Barr & Davenport, House of, Sp. trading firm, 1074, 1087; partners and organization of, 1089-96; activities of, 1096-97; merchandise handled by, 1097-98; setbacks of, 1098-1100; return to prosperity, 1100-1101; Sp. attitude toward, 1101-1103.
- Barrett, Geo. H., assumes direction of Am. Theatre, 1838, p. 235; season 1838-39, pp. 235-40.
- Barrow, Alexander, Rep. from W. Fel. with Johnson, 950, 951; death of, 970; noted, 982.

- Baton Rouge, La., origin of name, 5-8, 44-47; physiographic characteristics of region of, 9-15; map of area, 11; subdivisions of, 14; levees of, 14-15; traffic outlets, 15; capitol in, 15; climate and weather, 16-18; soils of area, 18-19; trees in area and other vegetation, 19-22; animal life of, 22-24; Indian mounds and middens give evidence of prehistoric Indians in, 24-30; earliest explorations, 30-34; location of Red Pole, 35-44; early maps showing, 39-40; Indian origin and settlement, 48-57; Fr. settle, 58-65; D'Artaguet family founders of, 60-63, 67; land office discontinued, 1861, p. 300; made capitol, 967; election of 1896, p. 1181.
- Baton Rouge Bayou, 5, 35, 40.
- Baton Rouge Reach, straight course of Miss. R. at B. R., 10, 15, 35; map of, 36; noted, 38, 40, 63, 67.
- Battle of N. O., Favrot's description of aftermath of, 725-28.
- Bayou Boeuf, Cathcart's survey, 765, 787 ff.
- Bayou de Large (Buffalo Bayou), 802n., 803.
- Bayou Fountain, 12, 24, 25.
- Bayou Garrison, figures in location of Red Pole site, 35, 37, 38.
- Bayougoula, village, 32.
- Bayougoula Indians, 34, 51, 56, 57, 83.
- Bayou Lafourche, 51, 739, 754.
- Bayou Long, 786 ff.
- Bayou Manchac, 24; Iberville's party camps near, 32, 33, 34; believed site of Red Pole by some historians, 35; figures in location of Red Pole site, 37, 38, 40, 44; noted, 694.
- Bayou Milhomme (Mellam), 787 ff.
- Bayou Monte Sano, 12, 13, 25, 36; southern boundary of Pousset grant, determines site of Indian Village, 42.
- Bayou Petite Sorel, 779, 780.
- Bayou Pierre, Sp. trading post established at, 1088, 1089, 1099, 1101.
- Bayou Pigeon, clearing of authorized, 298, noted, 837.
- Bayou Plaquemine, 739, 752n., 754, 758, 759, 760, 762; Cathcart's survey, 834 ff.; noted, 883.
- Bayou Reed, Cathcart's survey, 766 ff.
- Bayou Robert, 828 ff.
- Bayou St. John, Houmas settled, 57; and Orleans Navigation Co. Case, 979.
- Bayou Salé, 828 ff.
- Bayou Sara, founder of, 942, 943.
- Bayou Shafer, 791, 792, 797.
- Bayou Sorel (Sorrel), 786, 888, 889, 834 ff.
- Bayous of La.*, by Harnett T. Kane, revd. by André Lafargue, 349-51.
- Bayou Teche Cathcart's survey of, 738, 739, 752, water routes to from the Miss., 754n.; noted, 760, 761, 762n., 763, 766 ff., 786, 793, 808 ff., 835 ff., 883, 888, 1129.
- Bean, Jacob, Opelousas planter, demanded return of slaves, 1071.
- Beattie, Taylor, Rep. cand. for gov., 1879, p. 1140.
- Bell, T. F., pres. anti-lottery conv., 1150-51; nom. Adams, 1157.
- Belle Isle, 765, 808 ff.; minerals on, 830; noted, 832; Cathcart found excellent live oaks on, 886-87, 891.
- Bellew, Page, Cathcart's pilot, 771; sketch, 771n.; noted, 829.
- Belly, Pierre, 842n.
- Benoit, A., 1176, 1177.
- Berwick, Thos., 791n.; sketch, 793n.
- Berwick Bay, Cathcart's survey, 765, 785, 791 ff., 812.
- Bienville, Jean Baptiste de, gov. of La. 32, 58; suppressed Natchez, 59; noted, 65, 72, letter to Maurepas, 683; and Favrot, 684.
- Blackman, Judge W. F., 1174.
- Blake, Wm., sketch, 755n.; noted, 758, 759, 841n.
- Blanchard, Newton Crain, appt'd by Foster to U. S. Sen., 1167, 1169; noted, 1170; selection of successor in Sen., 1184; favored primary system, 1196.
- Board of Internal Improvements, created by Legis. to administer special U. S. reclaiming funds to Territory of Orleans, 293-94.
- Board of Levee Commissioners, 302-305.
- Board of Public Works, replaced Swamp Land Com., created, 293-95; abolished, 295; Const. of 1852 provided for reviving of, 295-96; established, 1859, composition and function of, 296-98; abolished because of Civil War, 298-99.
- Board of Swamp Land Commissioners, creation, 287-90; abolished, 293.
- Boatner, C. J., supported McEnery forces, 1892, p. 1161; noted, 1172.

- Bonavía, Bernardo, mil. gov. of Tex., 1080, 1081.
- Booth, A. B., chairman Populist State Ex. Com., 1175; cand. for gov., 1176; withdrawal from race, 1179.
- Bouvee, G. E., on Lynch Returning Board, 1135.
- Bowles, Evan, sketch, 766n.
- Boyle, Wm. D., named judge to succeed Johnson, 959.
- Braddish, Geo., 750n.
- Bradford, James M., 948.
- Brashear, Dr. Walter, sketch, 813n.; noted, 832n.
- Breaux, John A., Repub. anti-lottery cand. for gov., 1160.
- Brent, Wm. L., 767n.
- Brooks, R. J. Negro Rep. representative from St. Mary, 1138.
- Broussard, Robt. F., opposed Sanders as Sen., 1223; noted, 1229.
- Brown, Clair A., co-ed., "Southern La. and Southern Ala. in 1819: The Journal of Jas. Leander Cathcart," 735-921.
- Brown, James, sketch, 843n.
- Brown, J. N., 841n.
- Bruslé, Louise Elizabeth, married Claude Joseph Favrot, 684.
- Bryant, Christie, 781n., 792, 829.
- Bryant, Luke, 791n.
- Buard, Marie Elizabeth, wife of Ed. Murphy, 1090.
- Burch, J. E., Farmers' Alliance Com., 1152.
- Burial Mounds, used by Indians for burial purpose, 27-28, 29, 30.
- Burnside, La., 843n., 844n.
- Bush, Louis, chairman meeting anti-lottery faction, 1158.
- Butler, Charles A., member com. to supervise election, 1161.
- Butler, Judge Thomas, defeated for Cong., 949.
- CABELLO, DON DOMINGO, gov. of Tex., opposed open trade with La., 1077.
- Cade, C. Taylor, fusion cand. sec. of state, 1900, p. 1192.
- Cadena, Francisco, Indian trader, 1086.
- Caffery, Donelson, 1129, 1130; in partnership with Foster, 1132; cand. for Sen. from St. Mary, 1876, p. 1138; chairman anti-lottery faction com., 1156-57; noted, 1161; appt'd by Foster to Sen., 1167, 1169; noted, 1170; his break with the party, 1186, 1187; support of fusion ticket, 1192.
- Caffery, Donelson, Jr., fusion cand. for gov., 1900, p. 1192; speech of, 1193; defeated, 1194.
- Calcasieu R., 1023, 1024, 1027, 1029, 1034, 1046.
- Caldwell, James H., 88; owned Am. Theatrical Co., 103, 104, 106 ff.; joins with Phillips, 105; sketch, 105-106; and Am. Theatre on Orleans St., 107-10, 110-13, 114-20; and Camp St. Theatre, 121 ff.; management of Am. Theatre ends, 186; noted, 199; opened new St. Charles theatre, 204-205; season, 1835-36, pp. 204-12; 1836-37, pp. 218-24; 1837-38, pp. 229-34; agreement between Caldwell and Barrett, 235; season 1838-29, pp. 240-45; 1839-40, pp. 247-50; 1840-41, pp. 253-57; 1841-42, pp. 264-68; withdrawal from theatrical scene in N. O., 274; Mary Ann Duff appeared in Am. theatre of, 927 ff.
- Calhoun, J. V., cand. supt. of ed., 1158, 1173, 1191.
- Camp St. Theatre, 240; leased for ball room, 247; again opened as Am. theatre, summer 1840, pp. 251-52; became Camp St. Exchange, 252.
- Canal Carondelet, and Orleans Navigation Co. case, 979.
- Canonge, B. Z., and S. C. Ord. of Nullification, 951.
- Capdeville, Paul, 343; address at reburial of Fr. sailors, 344.
- Carlin, Joseph, sketch, 763n., 766n.
- Carline, Cathcart's pilot, 770.
- Carondelet, Baron Francisco Luis Hector, and Don Pedro, 705 ff.; noted, 722, 1013, 1014.
- Carr, John C., civil judge at Natchitoches, 1061, 1065; efforts to recover fugitive slaves, 1072-73.
- Carrollton House, N. O. summer resort, theatrical entertainment in, 263-64.
- Casa Calvo, Marquis de, 715, 718, 719; Sp. boundary commissioner in N. O., 1070-71.
- Cathcart, James Leander, com. to make survey of timber for naval purposes in La. and Ala., 735-36; life of, 736-37; salary as navy agent, 737, 738; sketch of survey, 738 ff.; result of survey, 740-41; journal, 743-883; map of routes in La., 748-49; charts of valuable timber found on survey, 880 ff.;

- compiled acc't of timber found, 883-92; correspondence of concerning survey, 892-921.
- Cathedral Square, 326, 327, 328; story of the obelisk in, 328-48.
- Caucasian Club, organized in Franklin, 1133.
- Chalmette, Don Ignacio de, in command at B. R., 698.
- Chalmette, obelisk marking site of Battle of N. O., 329.
- Champagne, John Louis, 841n.
- Chapman, George, theatrical co. of in N. O., 251.
- Charity Hospital, income from lottery co., 1141.
- Charlevoix, Father, visited B. R., 62; attributes change in course of Miss. to human factor, 71-72, 84.
- "Chatsworth," Murphy plantation, 1131.
- Cheniére au Caminada, 884, 885.
- Chenier au Tigre, 765, 811, 829, 830, 886.
- Chetimaches Isles, 785, 787.
- Chevis, W. C., Foster's campaign manager, 1224.
- Chew, Beverly, collector of customs, N. O., 753n.
- Chinn, Thomas Wither, Whig Rep. to Cong. from La., sketch, 942; and S. C. Ord. of Nullification, 951.
- Choctaw Indians, and the name B. R., 46-47; Houmas a tribe of, 48.
- Choctaw Village, described by Cathcart, 850-52.
- Claiborne, W. C. C., took over W. Fla. Rep., 723; claimed W. Fla. as part of Ter. of Orleans, 944; rep. U. S. in transfer of La. 1018; and the neutral ground between Tex. and La., 1031, 1036, 1037, 1045, 1065; appeal to for protection of slaves escaping into neutral ground, 1070; noted, 1072, 1073; 1082.
- Clapp, Rev. Theodore, inauguration of Gov. Isaac Johnson, 963.
- Clark, Daniel, 843n.
- Clayton, T. A., Populist, 1160.
- Coleman, H. Dudley, Rep. Lotteryite cand. for lt.-gov., 1159.
- Commissioner of Public Lands, office established, 300; abolished, 301.
- Conichi Ranch, Turner's advance to, 1032 ff., 1036.
- Conrad, Charles Magill, 821n.
- Conrad, Frederick, sketch, 762n., 821n.
- Cook, Dr. G. A. M., cand. supt. of ed., 1176, 1177.
- Cooley, Dr. E., appeal for protection of slaves, 1070.
- Coquet, M., proprietor of the St. Philip Theatre, 91.
- Cordero, Antonio, ordered to comd. Tex., 1029; his attempts to enforce claims, 1029 ff.; neutral ground agreement, 1040-41; boundary, 1046; gov. of Tex., conference with Indians, 1085; council to discuss problem of Indian trade, 1088.
- Cordill, C. C., prolottary senator, 1145.
- Corona, José, injury of by bandits, 1064.
- Corri, H., small theatrical co., 274.
- Costello, James, Dem. cand. for Rep. from St. Mary, 1136.
- Cowpen Island, 791, 792, 833.
- Crandall, A. W., member com. to supervise election, 1161.
- Croix, Don Theodore de, Sp. comdt. gen'l, urged open trade with La., 1075-76.
- Cross, K. A., prolottary senator, 1145.
- Cunningham, M. J., suggested cand. att'y gen'l, 1158, 1173; noted, 1161, 1162.
- Cushing, Col. T. H. demanded explanation of Sp. patrols, 1035-36; neutral ground agreement, 1039.
- Customhouse-Grant Republicans, election of 1872, p. 1134.
- Cypress Bayou, 12, 771, 773.
- Cypress Island, Cathcart's survey, 769 ff., 783, 836; good live oak, 889.
- DAPONTE, DURANT, appt'd by Warmoth to Returning Board, 1134.
- Darby, Wm., 805; description of neutral ground, 1048.
- D'Artaguet, Bernard Diron, 60, 62; one of the family founding B. R., 60, 67.
- D'Artaguet Concession, map showing, 39; called B. R. by Broutin, 40; early B. R. concession, 60-63.
- Davenport, Samuel, sketch, 845n.; noted, 886; report of, 890, 892; noted, 1046; land claims in neutral ground, 1052; interpreter for joint Am.-Sp. expedition against bandits, 1062; noted, 1068; organized trading firm, 1089; claim against for Barr property, 1090-

- 92; sketch, 1092-93; leader filibusters, 1094-95, 1103; experiments with sugarcane, 1095; will, 1091, 1095-96; activities of House of Barr and Davenport, 1096 ff.; Sp. attitude toward, 1101-1103.
- Davis, Benjamin, Baptist minister, sketch, 755n.
- Davis, John, erected Theatre Orleans, 90.
- Dawson, Anna Ruffin, married Chas. G. Johnson, 942.
- Dawson, John B., 942n.; sketch, 949n.; W. Fel. parish judge, 954; noted, 962.
- DeBlanc, Judge Alcibiade, organized Caucasian Club, 1133.
- DeBuys, Gen'l Wm., Whig cand. for gov., 959.
- de Clouet, Louise Favrot, sister of Don Pedro, 688; description of, 691.
- Deep Delta Country**, by Harnett T. Kane, revd., 990-92.
- Deer Island, 765, 798, 800, 810, 886.
- DeFeret, G., and Returning Board, 1135.
- DeFeret Board, 1135, 1136.
- deLaage, Jules, chancellor of Fr. consulate, N. O., 340, 342, 343.
- De la Rosa, Don Francisco, victim of "no trade" policy of Sp. with La., 1080.
- Delery, C., pres. Board of Health of La., repaired monument to Fr. sailors, 335.
- de Maret, Zadie, married Levi Foster, 1130.
- de Nava, Don Pedro, Sp. comdt. prohibited exportation of livestock to La., 1096.
- Denegre, Walter, cand. U. S. Sen., 1184.
- Department of Public Works, established, 1942, p. 299.
- Derbanne, Louis, search for fugitive slaves in neutral ground, 1072.
- Derniere Isle (Last Isle), 803 ff.
- Deshotels, O. H., fusion cand. for auditor, 1900, p. 1192.
- Destrehan, Jean Noel, sketch, 844n.
- Devils Swamp, 5, 23, 40.
- Dickson, Alexander, Articles of Capitulation of B. R., 696.
- Dimitry, Alexander, supt. of ed., 971.
- Dinkins, Lynn H., pres. Interstate Trust & Banking Co., 1225.
- Dirombourg, early name for B. R., 62.
- Donaldsonville, La., 38, 739, 754, 755, 757, 842.
- Donnally, Capt. J. B., Rep. cand. sec. of state, 1175.
- "Don Pedro Favrot, A Creole Pepys," by Helen Parkhurst, 679-734.
- Downs, Solomon W., U. S. Sen. supporting bill for reclaim of swamp lands, 279; noted, 948; appt'd to rep. La. at Memphis R. R. Conv., 974.
- Dubuclet, Dauterive, sketch, 813n.; claim on Belle Isle, 915.
- Duff, John R., husband of Mary Ann Duff, 924 ff.; death of, 933.
- Duff, Mary, daughter of Mary Ann, also actress, 938-39.
- Duff, Mary Ann, gave up brilliant career as actress to become homemaker in N. O., 922-23; life and family of, 923-24; marriage to John Duff, 924; theatrical career in Am., 925-26; appearances in N. O., 926, 927-33; death of husband, remarriage, 933; retirement to private life, 933; separated from husband, left N. O. for life of obscurity, 936-37; death, 937-38; children of, 938-40.
- Duff, Wm., pioneer in the Eng. theatre in N. O., 90, 91, 92.
- Duplessis, P. L. B., Jr., survey for lighthouse at mouth of Miss., 748n.
- DuPratz, explanation of origin of name B. R., 45, 46; location of B. R., 63; attributes change in course of Miss. to human interference, 70-71; believed cutoff of Pointe Coupée occurred in 1713, pp. 76, 84; his *Carte de la Louisiane*, 40.
- Dupré, Judge Gilbert L., 1174.
- Durell, Judge E. H., 1135.
- Durst, John, 1068, 1093, 1095.
- EAST FELICIANA**, formation, 946; Johnson in, 948; noted, 952, 958.
- Ecuyer, Emile, pres. Fr. Union, 343.
- Election Returns, 1892, 1896, 1912, tables of, 1232-37.
- Elliott, Clay, opposition to election law, 1186.
- Embargo Act, enforced in neutral ground, 1099-1100; repealed, 1100.
- Engle, Don Pedro, trader sent to Indians, 1099.
- English Turn, 684, 695, 751n.
- English Opera House, 103.
- English Theatre, hist. of in N. O., 84-276, 361-572; bibl. of, 275-76; annual chronological records, 361-490; list of plays, 490-541; list of players, 542-63; list of playwrights, 563-72.

- Erwin, Joseph, 842n.
- Esnault, Louis, in duel with Philogene Favrot, 732.
- Estopinal, Albert, pres. *pro tempore* of Sen., 1185; cand. lt.-gov., 1900, p. 1191.
- FALSE RIVER CUTOFF, formerly channel of Miss., 69; cause of, 69-75; possible date of, 75-77; human interference not necessary and ineffective, 77-81; length of time for change, 81-84.
- Farmers' Alliance, combine with Anti-Lottery League, 1152 ff.
- Faulkner, A. W., favored submitting lottery question to people, 1144.
- Favrot, Claude Joseph, father of Don Pedro, in La. in 1728, p. 683; mil. service, 683 ff.; commendation of, 687; in Fr., 687, 688; death, 689.
- Favrot, Josephine, letter to friend describing life at Plaquemines, 713-15.
- Favrot, Maria Francesca, grave of, 733.
- Favrot, Don Pedro, docs. of, 679-82; ancestors, mil. background, 682-87; birth and early years, 684-85; service at Ark. post, 688; visits Fr., 688-89; service in Fr., 689; termination of service to Fr., 689-90; social life in Fr., 690, 691; transfer to service of Sp., 690, 691-94; relations with Galvez in La., 694; plans for defense of N. O., 694-95; in comd. at B. R., 695-98; at Mobile, 699-702; marriage of, 699; at Natchez, 702-704, 705; letter to Carondelet criticising his policies, 706-707; letter to Genêt, 707-708; given comd. at Plaquemines, 708-15; ed. of children, 711-13; at B. R., 715-716; purchased plantation near B. R., 716; reassigned to Plaquemines, 716; coming of Laussat, 716-18; transfer of San Felipe to Fr., 719-20; retired, 720-21; tribute to Louis Grand-Pré, 722-23; member state legis., 1814, plan for defense of N. O. and La., 724-25; letter to his wife *in re* aftermath of Battle of N. O., 725-28; letter from son describing regard for Napoleon, 729-30; sons of, 731; death of Philogene, 732; death of, 732-33; burial plot of, 733-34; society of Children of Am. Rev. bears name of, 735.
- Favrot, Philogene, son of Don Pedro, 680; letters of to father, 729-30; judge of W. B. R., 731; killed in duel, 732.
- Feliciano, rebellion in, 944; became prosperous, 945-46; divided into E. and W., 946.
- Ferris, J. D., letters *in re* timber on L. Pontchartrain, 917-20.
- Fitzpatrick, John, member com. to supervise election, 1161.
- "Flood Control Act," Cong. act of 1928 giving fed'l aid in the control of the Miss., 324-25.
- Folch, Vicente, 702; comdt. W. Fla., 720.
- Fort Darby, 883, 884.
- Fort St. Philip, 750, 751.
- Fort Richmond, B. R. changed by Great Britain to, 63, 65, 67.
- Foster, D. N., physician and supt. of ed. of St. Mary, 1131.
- Foster, James, leased theatre on Camp St. for ball room, 247; unsuccessful, 251.
- Foster, Levi, 767n.; sketch, 1130.
- Foster, Murphy J., 767n.; ancestors, birth, early life, and ed., 1130-32; cand. for legis., 1872, pp. 1136-37; his work with White League, 1137-38; support of Nicholls, 1138; election to Sen., 1879, pp. 1139-40; his work as Sen., 1140; efforts in behalf of state schools, 1140, 1141; his fight against the lottery, 1140-41, 1141-51; pres. *pro tempore* of Sen., 1141; the 1892 campaign for gov., 1152-63; inaugural address, 1164; efforts to heal factional differences, 1164-65; and the N. O. strike of 1892, pp. 1165-66; political appointments, 1166-67; support of Cleveland, 1167; message to legis., 1894, pp. 1167-68; provision for election of police jurors, 1168; fight for election laws, 1168, 1185, 1186; other bills, 1168-69; and Dem. split over tariff, 1169-70; election of 1896, pp. 1170-83; inaugural address, 1183; divided legis., 1183-84; appointment of Sen., 1184; const. conv., 1185-86, 1188; support of Bryan, split in party, 1186-87; election of delegates to const. conv., 1187-88; special session of legis. to authorize cities to issue bonds, 1189-90; his good neighbor policy, 1190; election of 1900, pp. 1190-94; named U. S. Sen., 1194; membership in committees, 1195;

- his colleagues, 1195; election of, 1195-98; the sugar tariff issue, 1198-1212, 1224; railroad legis., 1212-16; action in re House Postal Appropriation Bill, 1216-17; interest in flood control, 1218-19; efforts to eradicate boll weevil, 1220; B. R. made port, 1220; other work in Sen., 1220-21; trip to Japan and Philippines, 1221; secured appointment of White as Chief Justice, 1221; the 1912 campaign, 1222-29; defeat of, 1228-29; appt'd Collector of Customs, N. O., 1229-30; private life and death, 1230; analysis of, 1230-31; tables of election returns of 1892, 1896, 1912, pp. 1232-37; bibl., 1237-43.
- Foster, T. D., judge of district, 1131.
- Foster, Thos. Jefferson, sketch, 1130-31; member White Camelia, 1130, 1134; on police jury, 1136.
- Fournet, Alexander V., cand. for treasurer, 1896, p. 1173.
- Franklin, La., 738, 752, 757, 760, 762, 763, 764; Cathcart's survey, 766 ff., 790, 792, 814; noted, 818 ff.; founding and naming of, 1130; noted, 1131, 1132; Caucasian Club in, 1133; mass meeting in 1872, pp. 1136-37.
- Frazee, W. S., cand. auditor, 1900, p. 1191.
- Freeman, Col Constantine, comd. U. S. troops at Natchitoches, 1061.
- Freeman, Thomas, surveyor gen'l of southern U. S., 894.
- French, explorations of in lower Miss. Valley, founding of B. R., 31; and settling of B. R. area, 58-65.
- French Theatre, in N. O., 89.
- Fuselier de St. Clair, Gabriel, 818n.
- GALVES, BERNARDO de, Sp. gov. of La., 64, 693; and Don Pedro, 694 ff.; noted, 721.
- Galvez, Don José de, Visitor Gen'l of New Sp., urged opening of road and seaport in Tex., 1076.
- Garza, Don Ysidro de la, expedition to clear neutral ground, 1068.
- Gates, Judge Fred, 1136.
- Gayarré, Charles, supported "tree theory" of origin of name B. R., 45; and state banking controversy, 979.
- Gayoso de Lemos, Manuel, 703, 705; becomes gov., 710; and Favrot, 711; death, 715; noted, 943; treaty with Indians, 1013.
- Genêt, Citizen, effect of in La., 704-705.
- Gerard, Francesca, marriage to Pedro Favrot, 699.
- German Theatre, Magazine St., first in N. O., 228; Chapman's co. at, 251; becomes New Am. Theatre, 1840, p. 252.
- Gibson, Randall L., U. S. Sen., 1892, p. 1161; end of term, 1164; death, 1167.
- Goldthwaite, Alfred, sen. leader of prolottery forces, 1145.
- Gonsoulin, Francois, sketch, 813n.; claim on Belle Isle, 915.
- Good Gov't League, organized, 1222, 1223; noted, 1228.
- Grace, Hon. Fred J., Reg. of State Land Office, report in 1912 on Act 215 of 1908, p. 315; reports quoted, 316, 317.
- Graham, Geo., sketch, 820n.
- Graham, co-manager Am. Theatre on death of Russell, 1838, p. 228.
- Grand Caillou, 807, 885.
- Grand Isle, 884, 885.
- Grand Lake, Cathcart's inspection, 761, 765, 766 ff.
- Grand-Pré, Carlos de, at Natchez, 703, 704, 705, 708, 715; death, 721; sketch, 721-22; noted, 943.
- Grand-Pré, Louis de, killed in W. Fla. Reb., 722, 724.
- Gravier, Father, acc'ts of Houma way of living, 51, 52, 54.
- Grymes, John R., denounced S. C. Ord. of Nullification, 951.
- Guadiana, José Maria, comdt. Nacogdoches, 1051; search for smugglers in neutral ground, 1060-61; opinion of House of Barr and Davenport, 1102.
- Guion, Walter, cand. att'y gen'l, 1900, p. 1191.
- Gutiérrez de Lara, Bernardo, filibuster, expedition into neutral ground, 1053, 1054-55; bandit leader, 1069.
- Gutiérrez-Magee expedition, 1103.
- HAGGARD J. VILLASANA, "The Neutral Ground Between La. and Tex., 1806-1821," pp. 1001-1128.
- Hall, Judge Luther E., cand. for gov., 1222, 1228.

- Hampton, Wade, 843, 844n., 883; comd. U. S. troops Orleans Ter., action to clear neutral ground, 1065-66.
- Hanson, Octave, Sen. of McEnery faction, 1137.
- Harmanson, John H., Congressman from La., in support of bill for reclaiming swamp land, 279.
- Hassinger, Geo., fusion cand. treasurer, 1900, p. 1192.
- Hatch, F. W., appt'd by Warmoth to Returning Board, 1134.
- Hawkins, Jacob, on Lynch Returning Board, 1135.
- Heard, W. W., suggested cand. auditor, 1158, 1173; cand. gov., 1900, pp. 1190 ff.; elected, 1194.
- Helphen, Dr., Ger. physician from N. O., 1093.
- Henry, John, sketch, 791n.
- Henry, S. J., chairman Populist Nom. Conv., 1175.
- Hermitage, 883, 884.
- Herrera, Don Simón de, assigned by Sp. to La. frontier, 1035; dispute over neutral ground, 1036; neutral ground agreement, 1039-41; noted, 1080; council to discuss Indian trade, 1088.
- Herron, F. D., deposed by Warmoth as sec. of state, 1135.
- Hill, F. S., co-manager of Am. Theatre on death of Russell, 1838, p. 228.
- Hill, Col. James D., Anti-Lottery League Com., 1152; pres. La. Sugar Planters Assoc., 1225.
- Hine, Daisy, married M. J. Foster, 1132.
- "Hist. of the Eng. Theatre at N. O., 1806-1842," by Nelle Smither, 85-276, 361-572.
- Holland, Geo., director of Vauxhall Garden, 234-35; noted, 240.
- Houma, La., city named after Houma Indians, 57.
- Houma Indians, at site of present B. R., 5, 6, 15, 33, 34, 35, 40, 45, 66-68; origin, culture, customs, and beliefs of, 48-57; noted, 58, 83; sketch of settlement, 757n.
- Howard, Charles T., and the La. Levee Co., 307-10.
- Howell, Gen'l A. G., 957.
- Howell, Sen. W. E., requested investigation of election returns, 1181; opposition leader in Sen., 1896, p. 1184; opposed election law, 1186.
- Hubert-Robert, Régine Marie Ghislaine, *L'histoire Merveilleuse de la Louisiane française; Chronique des XVIIe et XVIIIe Siècles et de la Cession aux Etats-Unis*, revd. by A. Lafargue, 351-54.
- Huerta, Fray José Maria, opinion of Barr and Davenport, 1102-1103.
- Humbert, Gen'l Jean Joseph Amable, Fr. filibuster in neutral ground, 1056.
- Hutton, James, com. with Cathcart to survey timber in La. and Ala., 735-36; salary, 737-38; sketch of survey, 738 ff.; noted, 752n., 764, 765, 766, 770, 772, 776, 825, 828, 830, 835, 845, 867, 868, 880, 883, 890, 892; correspondence in re survey, 893 ff.; letters to and from Cathcart, 895-96, 902-904; in re planned survey of Mermentau, 899-902.
- IBERVILLE, PIERRE LEMOYNE, explorations of Red Pole area, 31-34, 35, 37, 40, 44, 45, 46, 48, 50, 51, 52, 55, 66; in re change in course of Miss. at False R., 69ff.
- "Index to the Sp. Judicial Records of La.," by Laura L. Porteous, 573-673, 1244-1324.
- Indian Mounds, in B. R. area, 24-30; theories as to origin of, 26-30; on Berwick plantation, description of, 793-95.
- Indians, tribes and location of each in Tex.-La. region, 1082n.
- Indian trade, rivalry between Am. and Sp. 1082-89.
- Ireland, Joseph, biographer of Mrs. Duff, 926.
- Isabelle, Thos., on DeFeret Returning Board, 1135.
- Istrouma, former Indian name of site of B. R., 5, 34, 44, 46, 47, 54; suburb of present B. R., 6.
- Italian Opera Co., inaugurated by Caldwell, 209, 219, 222-23, 267, 268.
- JACKSON, MOSES, Negro Repub. elected Rep. from St. Mary, 1140.
- Jastremski, Gen'l Leon, headed McEnery Com., 1157.
- Jáuregui, Jacinto de Barrios y. gov. of Tex., 1753, investigated U. S.-Tex. border, 1021.
- Jefferson, Thos., and La. Purchase, 1017; cited docs. proving that Rio Grande was western boundary of La., 1020, 1021.

- Johnson, Charles Grandpré, sketch, 942n.
- Johnson, Henry, U. S. Sen. supporting bill for reclaiming swamp land, 279.
- Johnson, Isaac, grandfather of later gov., settled in Natchez, 941-42; family of, 942-43; moved to Bayou Sara region, 943.
- Johnson, Isaac, ancestors, 941-45; early life, 945, 946; becomes lawyer, 946-47; marriage to Charlotte McDermott, 947; children of, 947; member legal prof., W. Fel., 948; mil. career, 949; in local politics, 949-50; description, 950; elected to La. Lower house, 950; on Judiciary Com. and Special Com. to study S. C. Ord. of Nullification, 950-51; seeks to amend charter of W. Fel. R. R. 951; second Legis. session, 951-52; resumes law practice and local interests, 952-53; judge of third district, 954-55, 956; appt'd sec. of state, 955-56; resigns, 956; appt'd to Court of Errors and Appeals in Criminal Cases, 956-57; suggested as cand. for gov., 957-58; received Dem. nom., 958-59; campaign and election of, 959-63; inauguration, 963-65; oath of office questioned, 966; capital moved to B. R., 967, 974-75; interest in Mex. War, 967-68; appt'd state supt. of ed., 969; Gen'l Assembly, 1847, pp. 969-70; State Univ., N. O., 970; public school bill, 970-71; day of thanksgiving and prayer, 972; death of wife, 972; message to Legis., 1848, pp. 972-73; denounces Wilmot Proviso, 973; Board of Health provided for, 973; condition of school system, 973-74; flood of 1849, p. 974; personal popularity of, 975; last message to Legis., 975-77; att'y gen'l, 977-78; remarriage, 978; settlement of McDonogh estate, 978; urged to be cand. for Cong., 978-79; state banking controversy, 979; Orleans Navigation Co. case, 979; const. conv., 1852, pp. 979-80; retirement, 980; cand. for ass. justice of state sup. ct., 980; death and burial, 980-81; estate of, 981; summary, 982-83; bibl., 984-89;
- Johnson, Isaac, Jr., uncle of Gov. Isaac Johnson, sketch, 942n.
- Johnson, John, sketch, 832n.
- Johnson, John Hunter, father of Gov. Isaac Johnson, 942; noted, 943; family and life, 944-45; death and estate, 946-47.
- Johnson, Joseph E., sketch, 942n.; and W. Fla. Reb., 944; noted, 946, 947.
- Johnson, Wm. H., 750n., 751.
- Johnston, Josiah Stoddard, 820n.
- Jones, T. Sambola, requests withdrawal of Adams as gov. cand., 1154-55.
- Jonas, B. F., and election of 1872, p. 1134; supported McEnery forces, 1892, p. 1161; opponent of Foster in U. S. Sen. races, 1196-97; noted, 1171.
- Joubert, Dr., great Fr. surgeon of N. O., 330-31; honored by Fr. gov't for services rendered Fr. sailors, 333.
- Journal of James Leander Cathcart, 735-921.
- "Jurisdiction of Settlement of Neustra Senora Del Pilar de Nacogdoches. Houses Located East Side of Sabine R. Year 1805," pp. 1105-1109.
- KANE, HARNETT T., *The Bayous of La.*, revd., 349-51 *Deep Delta Country*, revd. 990-92.
- Kellogg, Wm. P., and the La. Levee Co., 309; and election of 1872, pp. 1134 ff.
- Kendall, John Smith, "The Am. Sid-dons," 922-40.
- Kenner, La., brief sketch, 756 n.
- Ker, Rose Routh, wife of M. J. Foster, 1132.
- Kernochan, H. P., cand. auditor, 1896, p. 1177.
- King, Geo. R., appt'd to Ct. of Errors and Appeals, 957.
- "Kitchen Middens," shell formations giving evidence of prehistoric Indians in B. R. area, 25.
- Kleinpeter, John B., cand. auditor, 1176; cand. lt.-gov., 1177, 1181.
- Kniffen, Dr. Fred B., in re "kitchen middens," 25; co-ed., "Southern La. and Southern Ala. in 1818: The Journal of James Leander Cathart," 735-921.
- Knobloch, Clay, chairman McEnery State Nom. Conv., 1158.
- LACAZE, PIERRE, vice-consul of Fr., 1914, efforts in locating and rebuilding monument to Fr. sailors, 336-37, 340 ff.

- LaChaise, Auguste, agent of Genêt in La., 704.
- Lafargue, André, "The Little Obelisk in the Cathedral Sq. in N. O.," 326-48; revs. Kane's *The Bayous of La.*, 349-51; revs. Hubert-Robert, *L'Histoire Merveilleuse de la Louisiane Francais*, 351-54; revs. Kane's *Deep Delta Country*, 990-92; revs. Roberts' *Royal St.: A Novel of N. O.*, 992-95
- Lafargue, A. D., member Farmers' Alliance Com., 1152; cand. supt. of ed., 1158.
- "Lafayette Combine," fusion of Farmers' Alliance and Anti-Lottery League, 1152 ff.
- Lafon, Bartholomew, 760n.
- Lafourche Parish, Houma Indians in, 57; natural resources, 321-22.
- Lake Borgne, 825, 846, 883.
- Lake Chetimaches, 835 ff., 889. *See also* Grand Lake.
- Lake Chicó, 837 ff.
- Lake Kernan, 12, 35, 36, 38, 67; Old Indian Village located near, 42.
- Lake Palourde, Cathcart's survey, 761, 785 ff.
- Lake Platt, Cathcart's survey, 785 ff.
- Lake Pontchartrain, 33, 740, 825, 846, 883; letters *in re* timber on, 917-21.
- Lake Maurepas, 740, 825, 846, 883.
- Lake Verrett, 754, 755, 787, 789, 796.
- Lambremont, Paul M., lt.-gov., 1222.
- LaNana, Sp. post, 1029, 1030, 1033, 1034, 1051, 1060; land grant of Barr and Davenport, 1089, 1090.
- Landreth, John, surveyor of La. and Ala. timber for naval purposes, 736; salary, 738; sketch of survey, 738 ff.; Cathcart's letter of instruction to, 894-95; correspondence with Cathcart concerning planned survey of Mermentau, 899-902; noted, 771, 772, 825, 830, 835, 850, 866, 867, 868, 910.
- Landry, E. A., cand. for Sen., 1879, p. 1139.
- Landry, Trasimond, nom. for lt.-gov., 959, 960; inauguration, 963.
- Lanier, Col. J. S., chairman State Central Com., 1891, pp. 1153, 1154; noted, 1175.
- LaRue, Antonio, settler in neutral ground, 1052.
- Lartiga, Don Pedro, Sp. practitioner, 1093.
- LaSalle, explorations in lower Miss., 31; noted, 32, 50, 72, 83; attempt to spread Fr. influence to Tex., 1075.
- "La Salle du Spectacle," or "Le Spectacle de la Rue St. Pierre," first Fr. Theatre, 89.
- "Las Ormigas," Davenport's tract of land, 1052, 1089, 1090, 1101.
- "Last Ditch" Democrats, election of 1872, p. 1134.
- Latrobe, H. S. B., survey for erection of lighthouse at mouth of Miss., 748n.
- Lawrason, S. McC., Sen. favoring election law, 1186; vice-pres. Const. Conv., 1188; noted, 1191.
- Lawton, Peter S., Rep. from Orleans, his vote on lottery issue, 1144.
- Lazaret, Quarantine Station below N. O. 329-30; monument to Fr. sailors, 1857, pp. 334, 335, 337.
- Leonard, A., Rep. of McEnery faction, 1137; Repub. lotteryite cand. for gov., 1159.
- Levees, at B. R., 14-15; early attempts to build, 277-78; opinions *in re* national aid in building, 280-82; the Swamp Land Act, 282 ff.; state provisions for, 286 ff.; Board of Public Works, 293 ff.; other agencies, 300 ff.; La. Levee Co., 307-10; swamp lands donated to levee district, 312-23; Miss. R. Com., 323-25.
- Lewis, Guinea, founder of Franklin, La., 1130.
- Lewis, Capt. Meriwether, U. S. agent among Indians, 1028-29.
- L'Histoire Merveilleuse de la Louisiane francais; Chronique des XVIIe et XVIIIe siècles et de la cession aux Etats-Unis*, by Régine Marie G. Hubert-Robert, revd. by A. Lafargue, 351-54.
- "List of Foreigners Or Their Children, Who are Considered Within Jurisdiction of Nacogdoches, and Who are Living in Bayou Pierre," 1109-10.
- "List of Ranches Recognized as Lying Within Jurisdiction of Nacogdoches, Together With Name of Ranch, Name of Owner, Distance and Direction from Nacogdoches," 1111-12.
- "List of Ranches and Settlers Pertaining to the Jurisdiction of Nacogdoches and Situated East of the Sabine R.," 1104.

- "Little Obelisk in the Cathedral Sq. in N. O.," by André Lafargue, 326-48.
 Livingston, Ed., 770n.
 Long, James, filibuster, expedition into neutral ground, 1053, 1057-59.
 Longstreet, Gen'l James, on Lynch Returning Board, 1135; arrest of members of McEnery legis., 1137.
 Los Adaes, Sp. post and the disputed neutral ground, 1023, 1024, 1029, 1030, 1033, 1038, 1046, 1050.
 Lott, Hiram L., temporary chairman Anti-lottery State Nom. Conv., 1157.
 La. Levee Co., under control of Howard and Morris, 307-10.
 La. Lottery Co., 307; the fight against rechartering, 1141-51; an issue in 1892 campaign, 1152 ff.; discontinued, 1163, 1164.
 "La.'s Administration of Swamp Land Funds," by Sam Mims, 227-325.
 La. State Bank, controversy over, 979.
 Ludlow, Noah M., director of Am. Theatrical Commonwealth Co., 96 ff.; noted, 252, 253; co-manager Am. Theatre, Poydras St., 257; season 1840-41, pp. 257-63; 1841-42, pp. 269-74; dominated theatrical scene, 1843, p. 274; noted, 935.
 Lynch, John, and the Returning Board in election of 1872, pp. 1134-35.
 MAGEE, AUGUSTUS, filibuster, expedition into neutral ground, 1053, 1055; bandit leader, 1068-69; comd. Am. detachment against bandits, 1062; comdr. filibustering expedition, 1094.
 Marchand, Nicholas, accompanied Cathcart expedition, 739, 752, 754, 755, 757, 770, 811.
 Marsh Island, 800 ff.
 Martin, Francois Xavier, believed Iberville responsible for change in course of Miss. at Pointe Coupée, 70; ruled Johnson's oath of office valid, 966.
 Mason, Leonard F., sec. of state, refused to promulgate lottery amendment, 1149; cand. sec. of state, 1185.
 Maudet, Lt., Fr. naval officer, saved from death in yellow fever epidemic, N. O., 329-31; gets money to build memorial to lost comrades, 332-33.
 McCaleb, E. Howard, member com. to supervise election, 1161.
 McCall, Henry, proposed cand. for gov., 1175.
 McConnell, James, antilotteryite, 1158.
 McDermott, Charlotte, marriage to Issac Johnson, 947; ancestry, 947n.
 McDonogh, John, controversy over estate, 978.
 McEnery, John, 312; and election of 1872, pp. 1134 ff.
 McEnery, Samuel D., cand. for gov., 1892, pp. 1155 ff.; noted, 1171, 1172; appt'd U. S. Sen., 1184; efforts to save La. sugar industry, 1209-10; death of, 1222.
 McFarland, J. W., temporary chairman Populist Nom. Conv., 1175; cand. sec. of state, 1176, 1177.
 McWhortle, Geo., state treasurer, and state banking controversy, 979.
 Mejan Count, Fr. Consul in N. O., 1857, pp. 330, 335.
 Mermentau, 739, 765, 811, 817, 826, 829, 830, 845, 886, 1023, 1024, 1027, 1046.
 Mézières, Athanase de, capt. at Natchitoches, 1083.
 Michel, John T., cand. sec. of state, 1172-73, 1191, 1222, 1228, 1229.
 Micheli, Vicente, trader, 1098.
 Milfort, Gen'l Louis, description of Mobile, 1783, p. 699; opinion of relative efficiency of Fr. and Sp. rule, 701.
 Mills, J. J., Populist cand. Lt.-gov., 1160.
 Mills, John H., founder Bayou Sara, 942, 943.
 Mims, Sam, "La.'s Admin. of Swamp Land Funds," 277-325.
 Mississippi R., 5, 9-10; straight course of at B. R., 10, 12; noted, 13, 14, 31, 33, 34, 35, 40, 42, 49, 50, 51, 59, 61, 62, 65, 66; changes in course of, 38; cause of changes, 69-75; possible data of change at False River, 75-77; other cutoffs, 77-78; human interference not necessary, 77-81; time required for cut-off, 81-84; U. S. purchased La. to to secure control of, 277; early efforts to prevent overflow, 277-78; U. S. gov't accepts no responsibility in control of, 278; early fed'l attempts to control, 279-82; provision by La. for levees, 287-89; noted, 297; La. Levee Co., 307-10; nat'l aid unavailable, 310-12; flood of 1927, pp. 322-23; Miss. R. Com.,

- 323-24; Flood Control Act, 324-25; Cathcart's impressions of, and of surrounding territory, 748-50.
- Mississippi River Commission, and cutoffs of Miss., 77, 79, 81; Cong. provided for, 323-24.
- Mobile, described by Cathcart, 852; Cathcart's survey of surrounding region, 853 ff., 871 ff.
- Moise, J. C., Anti-Lottery League Com., 1152; member Com. to supervise election, 1161; appt'd judge Criminal District Ct. of N. O., 1162.
- Moncure, J. C., Speaker of House of McEnery faction, 1137.
- Mondelli, A., designed St. Charles theatre of N. O., 205.
- Montegut, Gabriel, cand. treasurer, 1158.
- Montero, Don Bernardino, Sp. comdt. at Nacogdoches, 1067; noted, 1093.
- Moore, John, 767n., 818n.
- Moore, J. J., cand. for Rep. from St. Mary, 1136.
- Mora, Jacinto, land grant to, 1052; trader, 1090, 1099.
- Morales, Juan Ventura, closed Am. right of deposit at N. O., 1017; acting Int. Gen'l, 1244-1324, *passim*.
- Morphy, Don Diego, Sp. consul at N. O., 1063.
- Morris, John A., and the La. Levee Co., 307-10; pres. La. Lottery Co., 1142 ff., 1160.
- Morse, Isaac E., Johnson's successor as att'y gen'l, 982.
- Mouton, Alexander, appt'd Johnson sec. of state, 955; appt'd Johnson to Ct. of Errors and Appeals, 956; noted, 965.
- Munson, Thenia, mother of Gov. Isaac Johnson, 942, 944.
- Murphy, Edward, organized trading firm, 1089, 1096; sketch, 1090; death, 1103; secures possession of land, 1051-52.
- Murphy, John B., sheriff of St. Mary Parish, 1130.
- Murphy, Martha, wife of Thos. J. Foster, 1130-31.
- Murphy, Smith, Barr, and Davenport, commercial partnership, 1052.
- Musquito Isles, Cathcart's survey, 785 ff.
- Myrtle Bayou, 780, 781, 783.
- Myrtle Isle, 775, 779, 780.
- NACOGDOCHES, and the disputed neutral ground, 1029-1112, *passim*.
- Natchez, trading post established by Fr., 58-59; noted, 61, 64, 65; Favrot in comd., 702 ff.
- Natchitoches dispute over transfer of post, 1021-23; and the disputed neutral ground, 1024-1103, *passim*.
- Navy Commissioners Islands, 783 ff.; good live oak, 888; noted, 889.
- Negro Theatre, attempt to establish, 1838, p. 229.
- Nelson, H. E., cand. treasurer, 1176.
- Neutral Ground, between La. and Tex., background, 1002-18; map of, 1003, 1022, 1044; first neutral ground in Am., 1004-1009; map of first neutral ground, 1007; boundary conflicts, 1009-10; Indian barrier, 1010-14; Treaty of San Lorenzo, 1014-15; La. purchase and its aid in creation of, 1016-18; disputed western boundary of La. purchase, 1018-28; neutral ground proposals, 1024-28; attempts to enforce opposing claims, 1028-34; agreement, 1034-43; boundaries of, 1043-47; physical aspects, 1047-49; factors working against, 1049-50; settlers, 1050-53; filibusters, 1053-59; bandits in, 1059-69; fugitive slaves in, 1069-73; Sp. restrictions on Tex.-La. trade, 1074-82; Indian trade, 1082-89; House of Barr and Davenport, 1089-1103; lists of ranches, settlers and families, 1104-12; bibl., 1113-27.
- "Neutral Ground Between La. and Tex., 1806-1821," by J. Villasana Haggard, 1001-1128.
- New Am. Theatre, 1824, Camp St., 116, 121; description, 121-22; became Am. Theatre, 121.
- Newgass, Benjamin, offer of Mex. Lottery Co., 1143, 1144.
- New Iberia, 810, 821 ff., 834, 835.
- New Orleans, 57, 59, 61, 65; a hist. of the Eng. theatre in, 1806-1842, pp. 85-276, 361-572; Pedro Favrot's plan for defense of, 694-95; Cathcart's impression of, 749; capital removed, "country vs. city" affair, 967; clearing house for troops of Mex. War, 967.
- New Orleans Theatre, St. Philip St., 113.
- Nicholls, Francis T., gov. end of the La. Levee Co., 309-10; Dem. cand. gov., 1138; called const. conv., 1139; opposition to rechartering lottery co., 1142; accused of receiving money from lottery co.,

- 1144-45; vetoed lottery bill, 1147-48; noted, 1151, 1157, 1159; named chief justice of La. Sup. Ct., 1166-67; noted, 1185.
- Nicholls, Thos. C., report on S. C. Ord. of Nullification, 950; appt'd to Ct. of Errors and Appeals, 957.
- Norsworthy, W. F., chairman, Farmers' Alliance 1152.
- Nunez, Adrien, cand. for Sen., 1139; elected 1140.
- OBELISK, in Cathedral Sq. in N. O., story of, 326-48; names of Fr. Sailors inscribed on, 325; description, 334; removed to N. O., 338 ff.
- O'Brian, Christopher, sketch, 791n.
- Olympic Circus, N. O. theatre, 94, 95.
- O'Neill, W. A., Repub. leader in the House, 1183; noted, 1186.
- O'Niell, Charles A., 1129, 1130.
- Opelousas, La., riots in 1896, p. 1179.
- Ordinance of Free Commerce, Sp. commercial policy, 1778, p. 1074.
- "Origin and Early Settlement of B. R., La.," by Andrew C. Albrecht, 5-68.
- Orleans Navigation Co., case of, 979.
- Orleans Theatre, 103, 104, 107 ff., 110-13, 114-20.
- "Ouida," plantation, 1132.
- Overton, Capt. W. H., comd. garrison at Natchitoches, 1067.
- PACKARD, STEPHEN B., Rep. cand. for gov., 1876, p. 1138.
- Palfrey, John, sketch, 828n.
- Palmer, Rev. B. M., anti-lotteryite, 1158.
- Panton, Leslie, & Co., British firm having Sp. Indian trade monopoly, 1012, 1014.
- Paris Island, 829, 833, 887, 891.
- Parkerson, John R., 1129, 1130.
- Parkerson, W. S., anti-lotteryite, 1158.
- Parkhurst, Helen, "Don Pedro Favrot, a Creole Pepys," 679-734.
- Parlange, Charles, formation of Anti-Lottery League, 1150; suggested cand. lt.-gov., 1158.
- Patout, Isadore, sketch, 767n.
- Patterson, Capt. Daniel T., naval officer in comd. at N. O., 738-39; survey for erection of lighthouse at mouth of Miss., 748n.; noted, 751n., 752, 754, 760, 844 ff., 883; letters of, 908-909, 910, 914-15, 920-21.
- Penicaut, M. Jean, acc't of Iberville's explorations, 32; early mention of Red Pole site, 34, 37; acc't of origin of name B. R., 44-45, 46, 47; *in re* Pointe Coupée Cut-off, 73, 74, 75; noted, 52, 56.
- Penn, D. B., and election of 1872, p. 1134.
- Pentagon Barracks, of B. R., 8, 68.
- Peoples' Party, election of 1892, pp. 1160, 1162-63.
- Perkins, A. J., cand. for Sen., 1879, p. 1139.
- Perry, Judge R. S., on Anti-Lottery League Com., 1152.
- Petit Caillou, 765, 806, 885.
- Pharr, John N., cand. gov., 1896, pp. 1177 ff.
- Phillips, Aaron J., owner theatrical co., 103 ff.
- Pickett, John, cand. for treasurer, 1158, 1177.
- Picornell, Juan Mariano, pres. Mex. Rev. gov't in exile, 1056.
- Pike, Zebulon M., cleared out neutral ground of bandits, 1066-68.
- Pikens, Israel, letters to and from Cathcart, 912-14.
- Pinchback, P. B. S., lt.-gov., 1132; and election of 1872, p. 1134.
- Pipes, D. W., and the lottery question, 1143.
- Plaquemine, La., 755, 757, 758.
- Plaquemines Post, Favrot in comd., 708 ff.; transferred to Fr., 719-20.
- Plauché, Gen'l J. B., defeated for nomination as lt.-gov., 959.
- Player List of the Eng. Theatre at N. O., 1806-1842, pp. 542-63.
- Play List of the Eng. Theatre at N. O., 1806-1842, pp. 490-541.
- Playwright List of the Eng. Theatre at N. O., 1806-1842, pp. 563-72.
- Plumb Island, 765, 798 ff., 808, 809, 886.
- Point au Fer, 765, 810, 829, 886 ff.
- Point Chevreuil, 810, 829, 830.
- Pointe Coupée Cutoff, cause, 69-75; date, 75-77; human interference unnecessary and ineffective for, 77-81; length of time for change, 81-84.
- "Pointe Coupée Cutoff in Hist'l Writings," by Hilgard O'Reilly Sternberg, 69-84.
- "Political Career of Isaac Johnson, Gov. of La., 1846-1850," by S. J. Aucoin, 941-89.
- "Political Career of Murphy James Foster, Goy. of La., 1892-1900," by S. J. Romero, Jr., 1129-1243.

- Pont, Don Nicolas, trader sent to Indians, 1099.
- Pope, Col. H. H., Negro sheriff of St. Mary, 1134.
- Populists, and election of 1896, pp. 1171, 1174 ff.
- Porteous, Laura L., "Index to the Sp. Judicial Records of La.," 573-673, 1244-1324.
- Porter, Alexander, sketch, 817n.
- Porter, James, minority report on S. C. Ord. of Nullification, 950.
- Porter, Moses, mil. comdt. at Natchitoches, efforts to enforce U. S. claims, 1031, 1036.
- Posey, Lloyd, Orleans Parish Sen., 1148.
- Postion's Settlement, Cathcart's survey, 781-82, 783.
- Price, Andrew, cand. U. S. Sen., 1184.
- Prichard, Walter, ed., "Index to Sp. Judicial Records of La.," 573-673, 1244-1324; co-ed., "Southern La. and Southern Ala. in 1819: The Journal of James Leander Cathcart," 735-921.
- Progressive League, pro-lottery organization, 1151.
- Pugh, E. N., Repub. cand. for gov., 1175.
- Pujo, Arsene P., opposed Sanders as Sen., 1223.
- QUESTI, GIOVANO. sketch, 758n.
- RANDALL, DAVIS A., sketch, 754n.
- Randolph, Mrs. Peter, 756n.
- Ransdell, Jos. E., secured relief for flood sufferers, 1219; cand. U. S. Sen., 1223, ff.; noted, 1229.
- Reconstruction, in La. under Warmoth, 1132-34; election of 1872, pp. 1134 ff. New entry Red River, 31, 49, 52, 71, 297, 845; red cedar on, 890, 892.
- Red Pole, Iberville's explorations of site of, 32-34, 50; location of site, 35-44; origin of name, 44-47; Indian origin and settlement, 48-57, 66-68.
- "Red Stick," meaning of name B. R., 5, 6; conjectures as to origin of name, 7-8.
- Reed, Isaac, sketch, 763n.
- Reeds Island, Cathcart's survey, 782, 783, 793.
- Register of State Land Office, 300; creation and duties of, 301-302; noted, 314; reports of, 314, 315, 316-19.
- Renthrope, Peter Hy., sketch, 781n.
- Renthrops Ferry, 781n, 793, 795, 812, 814.
- Returning Board, and the election of 1872, pp. 1134-35.
- Rice, Samuel Russel, sketch, 792n.
- Richardson, Francis D., sketch, 817n.
- Richardson, John G., sketch, 817n.
- Richardson, R. W., appt'd to rep. La. at Memphis R. R. Conv., 974.
- Richardson, Wm., sketch, 817n.
- Roberts, Peter, sketch, 831n.
- Roberts, W. Adolphe, *Royal Street: A Novel of Old New Orleans*, revd. 992-95.
- Robinson, John Hamilton, because interested in filibustering, 1054, 1056-57.
- Rodriquez, Mariano, sent to trade with Indians, 1086.
- Rodriguez, Sebastián, Sp. comdt. of frontier, 1030 ff., ct.-martialed, 1034.
- Roman, A. B., gov., 295, 950.
- Romero, Sidney James, Jr., "The Political Career of M. J. Foster, Gov. of La., 1892-1900," pp. 1129-1243.
- Ronquillo, Juan, chief pilot at Balize, 708, 709.
- Routh, Mary, grandmother of Gov. Isaac Johnson, 942.
- Rowe, James S., co-manager Am. Theatre, 186, seasons 1833-1835, pp. 186-99; death, 199.
- Royal St.: A Novel of Old N. O.*, by W. Adolphe Roberts, revd. 992-95.
- Russell, Richard, co-manager of Am. Theatre, 186; seasons 1833-36, pp. 186-204; noted, 211; season 1836-37, pp. 212-18; 1837-38, his last season, 224-29.
- SABINE RIVER, 826, 886, 890; disputed boundary of neutral ground, 1024, 1028 ff.
- St. Charles Theatre, opened, 1835, by Caldwell, 204; description, 205; seasons 1835-36, pp. 204-12; 1836-37, pp. 218-24; 1837-38, pp. 229-34; becomes Vauxhall Garden for summer season, 1838, pp. 234-35; seasons 1838-39, pp. 240-45; 1839-40, pp. 247-50; 1840-41, pp. 253-57; 1841-42, pp. 264-68; destroyed by fire, 1842, pp. 268, 274.
- St. Clair, Benoit de, sketch, 813n.; claims on Belle Isle, 915.
- St. Francisville, La., 944, 945; anti-abolition meeting, 952; Dem. barbecue for selecting cand. for gov.,

- 957, 958; noted, 972; Johnson's burial place, 981.
- St. Landry Parish, riots in, 1896, p. 1179.
- St. Martin Parish, formation of, 1129; outstanding men of, 1129; noted, 1131.
- St. Martinsville, La., 759, 763, 811, 817, 822 ff., 835 ff., 883.
- St. Mary Parish, formation of, 1129; noted, 1130, 1131; reconstruction in 1133-34; first post-war election in, 1134; election of 1872, p. 1136; election of 1876, p. 1138; support of Foster, 1140; and 1892 election, 1156.
- St. Philip St. Theatre, 91 ff., 102 ff.; Allen's co. at, 113-14.
- Salcedo, Manuel de, transfer of La. to U. S., 1018; aid in returning fugitive slaves, 1072, 1073; letter to Indians, 1086; council on Indian trade, 1088; noted, 1093.
- Salcedo, Nemesio, comdt.-gen'l, and the neutral ground, 1023, 1024, 1028, 1031, 1033, 1035, 1036, 1038, 1045, 1073.
- Sanders, J. Y., 1129, 1130, 1188; favored primary system, 1196; declined to be U. S. Sen., 1222.
- Sandoval, Manuel, gov. of Tex., 1021.
- Sargent, Dr. Percy, son-in-law of Gov. Isaac Johnson, 947, 981.
- Scott, Thos. W., pres. Dem. Conv., B. R., 958.
- Scott Bluffs, 14, 35, 36; Red Pole site believed to be near, 38, 40, 42; noted, 67.
- Seip, Frederick, La. Sen., 1145.
- Senet, Joseph, sketch, 772n.
- Sevier (Seaver, Xavier), husband of Mary Ann Duff, lawyer of N. O., 933 ff.
- Sibley, Dr. John, sketch, 845n.; noted, 886; report of, 890, 892; Indian agent at Natchitoches, 1031, 1082n.; activities among Indians, 1086-87; noted, 1095.
- Silver question, in La. in 1896, pp. 1170-71, 1173-74.
- "Shady Retreat," Foster plantation, 1130.
- Shaler, Wm., U. S. agent in Natchitoches, 1054, 1055, 1094.
- Sharp, John C., appt'd to rep. La. at Memphis R. R. Conv., 974.
- Shattuck, S. O., introduced bill to have lottery question put to people, 1143.
- Shields, B. C., Sen. from Orleans, 1149.
- Shields, Thos., purser of the navy stationed at N. O., 871, 872.
- Sholars, D. M., 1172; fusion cand. lt.-gov., 1900, p. 1192.
- Smith, J. Fisher, prolottary Sen. from Sabine, 1147, 1148.
- Smith, John, Toledo's agent, 1056-57.
- Smith, John K., navy agent in N. O., 753n.
- Smith, Ledoux E., cand. treas., 1890, p. 1191.
- Smith, Luther, organized trading firm, 1089, 1096; sketch, 1090.
- Smith, Sol, noted, 252, 253; co-manager of Am. Theatre, Poydras St., 257; seasons, 1840-41, pp. 257-63; 1841-42, pp. 269-74; dominated theatrical scene, 1843, p. 274.
- Smither, Nelle, "A Hist. of the Eng. Theatre at N. O., 1806-1842," pp. 85-276, 361-572.
- Smugglers, in La., 826-27.
- Smuggling, across neutral ground, 1079, 1080, 1081-82.
- Snyder, R. H., Jr., cand. lt.-gov., 1896, pp. 1172, 1173; elected, 1181; noted, 1191.
- Sorrel, Joseph, 819n.
- Sosa, Fray Mariano, opinion of Barr and Davenport, 1102.
- Soto, Don Marcelo, established post at Bayou Pierre, 1089; noted, 1101.
- "Southern La. and Southern Ala. in 1819: Journal of J. Leander Cathcart," ed. by Prichard, Kniffen, and Brown, 735-921.
- Sparrow, Edward, Whig cand. for lt.-gov., 959.
- Stallings, J. M., opposed lottery, favored leaving decision to people, 1144.
- Staples, O. B., fusion cand. supt. of ed., 1900, p. 1192.
- State Board of Engineers, handling of swamp land, 299, 300, 305-307.
- Steele, O. B., cand. auditor, 1158.
- Sterling, Alexander, 763n., 818n.
- Sterling, Henry, 763n.
- Sterling, Lewis, 763n.
- Sternberg, Hilgard O'Reilly, "The Pointe Coupée Cut-Off in Hist'l Writings," 69-84.
- Sugar Planters, faction of Dem. Party, 1169-70; election of 1896, pp. 1171, 1174 ff.
- Sutherland, E. W., cand. att'y gen'l, 1158.
- Suthon, L. F., Rep. cand. for gov., 1175; cand. att'y gen'l, 1177.

- Sutton, Isaac, Rep. cand. for Sen. from St. Mary, 1876, p. 1138; Negro Rep. from St. Mary, 1136.
- Swamp Land, U. S. aid in reclamation of, 278-82; conflicts in application of Swamp Land Act, 282-84; how La. handled funds for, 285-93; methods of designating, 291; Board of Public Works, 293-99; other agencies having control over, 300-307; donated to levee districts, 312-20; transfer to Texas Basin Levee Board, 320-21.
- "Swamp Land Act," 1850, provisions of, 279-80; conflicts in the operation of, 282; purpose of, 282-83; fraud and speculation in application of, 282-84.
- Swamp Land Funds, handling of in La., 285-93; first use of for levee building, 287; creation of Swamp Land Commissioners, 287-90; Board of Public Works, 293-99; other agencies, 300-307.
- TANNEHILL, R. L. Populist cand. for gov., 1160.
- Taylor, J. A., on DeFeret Returning Board, 1135.
- Terrebonne, Parish, Houma Indians in, 57; noted, 315.
- Theatre Orleans, sketch of, 90.
- Theatre St. Phillipe, Fr. theatre erected in 1808, pp. 89-90.
- Thespian Benevolent Society, of N. O., created interest in Eng. drama, 92, 93.
- Thornton, John R., U. S. Sen., 1222.
- Thorps, Dr., 330; honored by Fr. gov't for services rendered Fr. sailors, 333.
- Thruston, Dr., Alfred, sketch, 820n.
- Thruston, Buckner, sketch, 820n.
- Thurston, Frances, 821n.
- Thunder, Fr. naval vessel in La. during yellow fever epidemic of 1857, pp. 329-34.
- Tiger Island, 789, 791, 792, 829, 833; Cathcart found good live oak on, 887, 891.
- Timballier Bay, 754, 765, 804, 885.
- Tivoli Garden, small N. O. theatre, 274.
- Toledo, Don José Alvarez de, and filibustering in neutral ground, 1054, 1055-57.
- Torre, Pierre, merchant owning territory where Fr. sailors were buried, 338-39.
- Totin, Francisco, trader sent to Indians, 1099.
- Towles, John, sketch, 762n., 821n.
- Trade, restrictions between La. and Tex., 1074-82; Indian trade, 1082-89.
- Trezevant, P. J., 1181, 1186; Dem. leader in House, 1183.
- "Troy," plantation of Isaac Johnson, 943, 944.
- Tucker, Col. A. L., 1136.
- Tunica Indians, invasion of at Red Pole site, 52, 57; noted, 684.
- Turner, Capt. Ed., Am. soldier at Natchitoches, 1030-31, 1032, 1033; mil. comdr. Natchitoches, appeal to for protection of slaves, 1069-70.
- Turner, Wm. A., director Eng. theatrical Co., 102-103.
- VANCE, JOHN, C., Anti-Lottery League Com., 1152.
- Vance, W. W., and lottery question, 1146.
- Varela, Don Mariano, sec. council on Indian trade, 1088.
- Vauxhall Garden, St. Charles Theatre converted into, 234-35.
- Verdun, J. B., Jr., Negro clerk of ct. in St. Mary, 1139.
- Vergnolle, J. M., headed com. for reconstruction of memorial to Fr. sailors, 339. New entry Vermillion River, 739, 817, 822, 826, 833.
- Vermillion Bay, 765, 826.
- Verret, Bob, leader of Houma Indians, 57.
- Verret, Philip, 834n.
- Viana, Francisco, neutral ground agreement, 1039.
- Vieux Carré, description of, 326-28.
- Vincent, Col. W. G., 1158.
- Voorhies, Alfred, Sen. of McEnery faction, 1137.
- WAGAMAN, Thos., 767n.
- Waggaman, Geo. A., 767n.
- Wailles, Levin, Reg. of Land Office, Ter. of Orleans, 845n.; noted, 863; letter to from Cathcart and Hutton, 904-905, 906-907, 909.
- Walker, Joseph M., suggested Dem. cand. for gov., 958-59; noted, 961; succeeded Johnson as gov., 977.
- Ward, Walter, Farmers' Alliance Com., 1152.
- Warmoth, Henry C., contract with La. Levee Co., 309; gov't of, 1132-33; appts. to Returning Board, 1872, pp. 1134-35.
- Watkins, John, and S. C. Ord. of Nullification, 951.

- Weeks, David, 821n.
Weeks, James C., Repub. antilott-
teryite cand. for lt.-gov., 1160.
Weeks, John, 821n.
Weeks, Wm., 821n.
Wells, H. P., temporary chairman
McEnery State Nom. Conv., 1158.
West Feliciana Parish, formation,
946; becomes rich, 946; the John-
sons in, 946 ff.; noted, 952 ff.,
961, 970, 1132.
"West Feliciana Railroad Case," 955.
West Florida Rebellion, 944, 947.
Wharton, John, named by Warmoth
as sec. of state, 1872, p. 1134.
White, Ed. D., accused of taking
money from lottery co., 1144-45;
had lottery co. prohibited use of
mails, 1150; noted, 1151; and the
lottery issue, 1161; named U. S.
Sup. Ct. Justice, 1167; noted,
1169; chief justice, 1221.
White Camelia, 1130; organized,
1133-34.
White League, 1130; Foster's work
with, 1137-38.
Whitehead, S., cand. lt.-gov., 1176.
Wickliffe, John C., anti-lotteryite,
1158.
Wickliffe, Robt. C., 948; suggested
for com. to supervise lottery poll,
1154; chairman McEnery State
Central Com., 1158; nom. lt.-gov.,
1158; noted, 1161; had B. R. made
sub-port of N. O., 1220.
Wilcoxon, Lloyd, 767n.
Wilkinson, James, comdr. U. S. army
in West, 1018; brings neutral
ground dispute to agreement,
1037-43.
Wilkinson, Theo. S., 1165; Chairman
Antilotttery State Nom. Conv.,
1157; noted, 1158.
Wilson Tariff Bill, effect of, 1169,
1170.
Wiltz, Louis A., 312; Dem. cand. for
lt.-gov., 1876, p. 1138; election for
gov., 1879, pp. 1139-40; death in
office, 1155.
Wiltz, P. S., on DeFeriet Returning
Board, 1135.
Winnsboro, La., land office discon-
tinued, 1861, p. 300.
Womack, W. R., Farmers' Alliance
Com., 1152.
Woodruff, Clark, established academy
near St. Francisville, 945.
Wyly, W. G., fusion cand. att'y gen'l,
1900, p. 1192.
YOUNG, JOHN S., and election of 1872,
p. 1134; member com. to supervise
election, 1161; appt'd sheriff of
Caddo Parish, 1162.
ZACATECAS MEX. LOTTERY Co., com-
petition to La. Co., 1142, 1143.
Zacharie, F. C., member com. to
supervise election, 1161; appt'd
register of voters of Orleans, 1162.
Zepeda, José, robbery of in neutral
ground, 1063-64.